

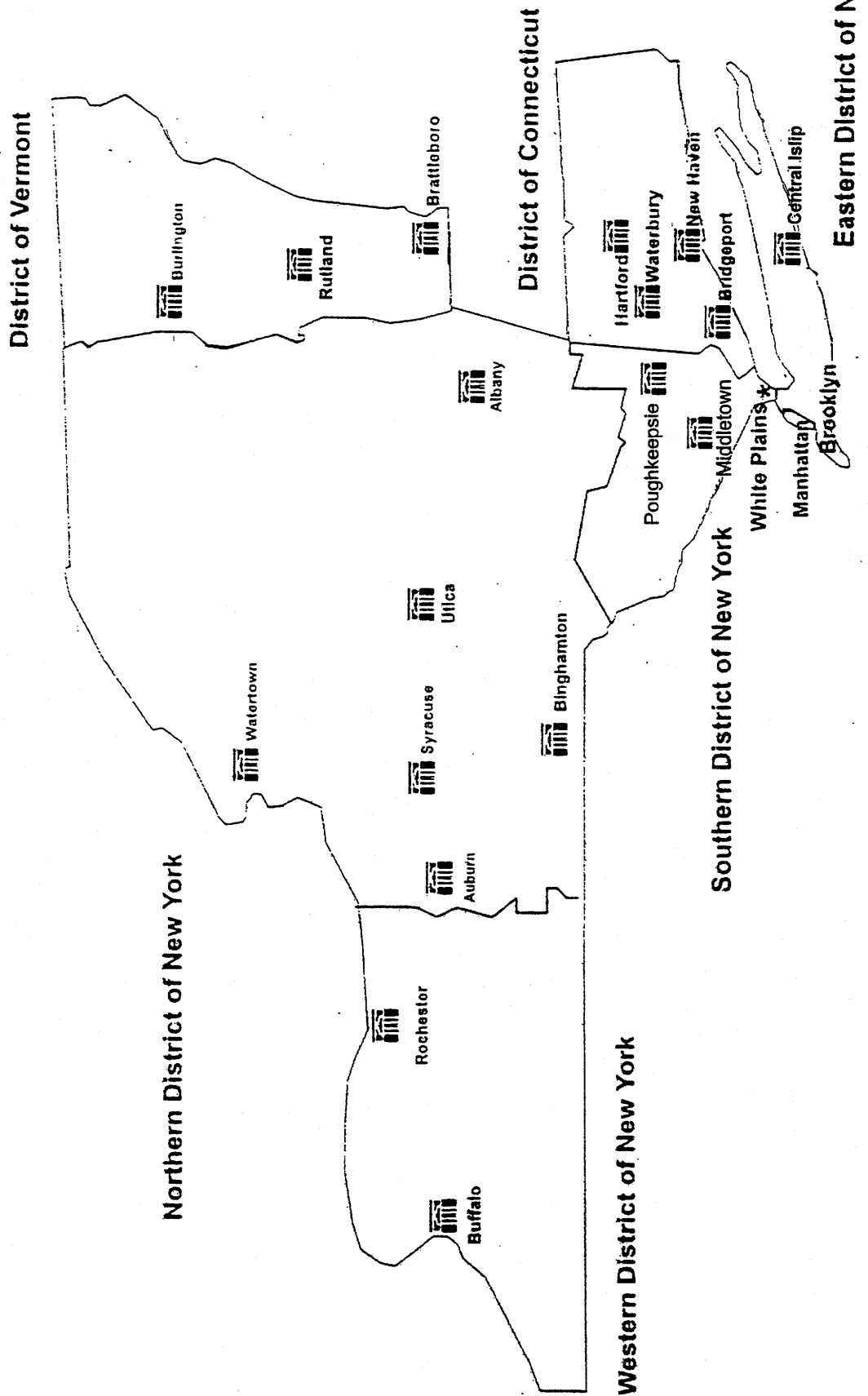
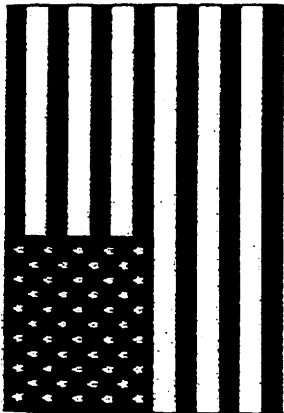
JUDICIAL BUSINESS

OF THE

SECOND CIRCUIT

THE SECOND JUDICIAL CIRCUIT

PLACES OF HOLDING COURT



CHIEF JUDGES'
REPORTS OF THE
SECOND CIRCUIT

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT



Chief Judge John M. Walker, Jr.

On August 12, 2003, our Court suffered a grievous loss with the death of Circuit Judge Fred I. Parker of Vermont. Judge Parker or “FIP”, as he was affectionately known to his circuit court colleagues, joined our Court on October 11, 1994 after serving as a United States District Judge in the District of Vermont from 1990 to 1994 and as that district’s Chief Judge from 1991 to 1994. A graduate of the University of Massachusetts and Georgetown Law School where he was Managing Editor of the Law Review, Judge Parker joined the law firm of Lyne Woodworth & Evarts in 1965 after graduation from law school. From 1966 to 1969, he was an associate in the law firm of Yardell & Page and later was a name partner in the Vermont law firm of Langrock Sperry Parker & Wool from 1972 until his 1990 appointment to the district court bench. Judge Parker served as Deputy Attorney General for Vermont from 1969 to 1972, chair of the Vermont Criminal Justice Training Council from 1973 to 1979 and as chair of the Vermont Supreme Court’s Special Committee on the Reform of the Judiciary from 1988 to 1989, among other public service endeavors. As a federal judge, from 1993 to 2003 he represented the Second Circuit on the Judicial Branch Committee of the Judicial Conference of the United States from 1993 to 2002.

Judge Parker’s sudden death was a terrible loss for our Court. A hard working and able jurist, he was a “judge’s judge,” who held no personal agenda and hewed to the path of the law. His opinions were models of clear, concise and well-crafted judicial prose that did not stray from deciding the issue at hand. He delighted in his family, his adored wife and constant companion, Barbie, and his

two sons, Hawkeye and Bruce. And he loved his adopted state of Vermont and all of the outdoor activities for which that state is famous. His fifth floor chambers in the Burlington Courthouse overlooked Lake Champlain. Most of all, Fred Parker was a warm and wonderful colleague. All of us loved FIP and we will miss his dry sense of humor, his wise counsel and his strong friendship which we had hoped would be with us for many years. Our hearts and deepest sympathies remain with Barbie, Hawkeye and Bruce and his colleagues and friends in his beloved Vermont.

In 2003, with our Court's overall filings rising 31%, we were one of seven regional courts of appeals reporting increases in filings. This increase was attributable primarily to a flood of immigration appeals, the result of a concerted effort by the Department of Justice ("DOJ") to eliminate an enormous backlog of cases before the Immigration and Naturalization Service ("INS"). While the INS enforcement functions were transferred to the new Department of Homeland Security, the INS adjudicative functions remain with the DOJ. Appeals from the Bureau of Immigration Appeals ("BIA") are taken directly to the Court of Appeals.

In 2002, the Attorney General directed the BIA to clear its backlog of cases, with the result that filings of appeals of BIA decisions nationwide climbed 153 % from 2001 to 2002 and 99% from 2002 to 2003. Most of these increases were felt in the Ninth and Second Circuits with considerable impact on the Fifth and Eleventh Circuits as well. The disposition of these cases is a challenge not just for our Court, but also for the attorneys: the United States Attorney's Office for the Southern District of New York and the private immigration bar, where a small handful of attorneys represent most of the aliens in counseled appeals.

At the same time, the Court of Appeals has had to deal with a significant upward spike in habeas corpus appeals and motions for certificates of appealability from the Eastern District of New York. A backlog of approximately 500 habeas corpus petitions were assigned to one district judge for review and disposition and their appeals have stretched our resources. To handle this severe caseload increase, our Court increased the number of double panels for the 2003-2004 Term to twelve with three additional optional panels standing by if circumstances warranted. While our present information as to the number and timing of additional cases ready for calendaring is imperfect, our goal is to try to build in as much flexibility as possible to deal with this caseload challenge over the next term of our Court.

In 2002, each active judge sat for forty days which translates into about 250 appeals. In addition, our judges heard numerous motions both counseled and pro se. As in previous years, about 80% of our panels were comprised entirely of our own circuit judges and, although we continued our tradition of including visiting judges, we relied primarily on visitors from within the Circuit. Once again, enjoying a nearly full complement of judges in 2004 allowed us to schedule sittings

that maximized opportunities for our judges to work closely with one another, thereby improving collegiality and building levels of trust and respect that are at the heart of good appellate decision-making.

Last year, on August 16, 2002, Judge Pierre N. Leval took senior status. The judicial vacancy created by Judge Leval's change in status was filled on June 13, 2003 when Richard C. Wesley, an Associate Judge of the New York State Court of Appeals, was elevated to our Court. Until Judge Fred I. Parker's untimely death on August 12th, our Court briefly enjoyed a full complement of thirteen active judges with no judicial vacancies.

In 2001, our magnificent building at 40 Foley Square in Manhattan was renamed in honor of the late Associate Justice of the United States Supreme Court Thurgood Marshall. On Monday, April 14, 2003, we formally dedicated the Foley Square United States Courthouse to Justice Marshall, who was a member of our Court from 1961 to 1965. Justice Marshall's widow, Cissy, her two sons and their families joined Senators Charles Schumer and Hillary Rodham Clinton, Congressmen Jerrold Nadler, Eliot Engel and Charles Rangel, GSA Administrator Stephen Perry, Deputy Attorney General Larry Thompson, Senior Circuit Judge Ralph K. Winter (Justice Marshall's first law clerk as a circuit judge), Chief Southern District Judge Michael B. Mukasey and myself in paying tribute to the late Justice Marshall. In the Main Lobby of the now Thurgood Marshall United States Courthouse a bronze plaque is affixed to the wall which bears a likeness of the late Justice from his days on the Supreme Court. The plaque that commemorates Justice Marshall's life tells all who enter our building that this imposing courthouse is forever dedicated to an "American hero", the civil rights leader, who in addition to his distinguished judicial career as an Associate Justice of the United States Supreme Court, a United States Circuit Judge for the Second Circuit, successfully argued Brown v. Board of Education before the United States Supreme Court.

Last year, I reported that our efforts to remedy the major infrastructure and architectural problems of the Thurgood Marshall Courthouse ultimately proved unsuccessful. Early in 2003, GSA Administrator Perry asked the courts and the AO to work with his agency in re-examining the costs of our project in an effort to secure approval from the Office of Management and Budget ("OMB") for inclusion in GSA's FY 2005 budget. Two months after we began this review, GSA Administrator Perry, in his remarks at the April 13th dedication of our Courthouse, publicly acknowledged the pressing need to remedy the Courthouse's deteriorated infrastructure and pledged his agency's support in securing the necessary funding from Congress. Members of Congress, including Senator Clinton and Congressman Nadler, in whose district our Courthouse is located, followed suit, pledging their support for our prospectus project.

As the 2003 calendar year ends, I am pleased to report that our efforts over the past three years to secure prospectus level funding to remedy the major infrastructure and architectural problems of the Thurgood Marshall Courthouse through an appropriation from Congress have been successful. In February 2004, GSA's request for \$16.5 million in design monies for our prospectus project to upgrade the infrastructure of the Thurgood Marshall Courthouse, was included in GSA's FY 2005 budget request to Congress. Construction monies will be phased over a two-fiscal-year cycle in FY 2007 and FY 2008. In order to upgrade and replace the building's heating, air conditioning, electrical and plumbing systems, both the Court of Appeals and the Southern District have agreed to vacate the courthouse prior to the construction phase of the project and to remain out of the courthouse until completion of the project in 2010. Undertaking a project of this magnitude will require an enormous sacrifice by the judges and staff of these two courts for many years, but it is essential that we replace the aging infrastructure of the Thurgood Marshall Courthouse with new modern systems that can support court operations well into the twenty-first century.

Our success in this almost three-year endeavor was thanks to the steadfast assistance of Leonidas Ralph Mecham, Director of the Administrative Office of the United States Courts ("AO") and his Assistant Director for Security and Facilities Ross Eisenman, who continued to retain the services of the Philadelphia-based architectural and engineering firm Vitetta Associates for us and who worked with us, Vitetta and GSA Region 2 throughout much of 2003 to re-examine and reduce the costs of the prospectus project to upgrade the infrastructure of the Thurgood Marshall Courthouse without sacrificing the scope of the much-needed infrastructure upgrade. We also thank GSA Administrator Stephen Perry, Public Buildings Commissioner Joseph Moravec and their staffs and GSA Region 2, Senators Charles Schumer and Hillary Clinton, Congressman Nadler and the members of the Citizen's Committee to Restore the Thurgood Marshall Courthouse for their support in helping us secure the necessary monies to preserve this stately and magnificent building for generations to come.

Finally, I want to mention the strong support that we received from the late Senator Daniel Patrick Moynihan over the past several years before his untimely death in 2003. Senator Moynihan served as the Co-Chair of the Citizen's Committee to renovate the Thurgood Marshall Courthouse and played an active role in our efforts. Our project is evidence of just another way in which this great public servant will be missed by the citizens of the State of New York and the country.

In closing, I am pleased to report that the news from the Court of Appeals is good and continues to improve. Even as our Court experiences changes in personnel and workload trends, we continue our tradition of scholarship,

collegiality and respectful dissent. While our median disposition time has lengthened due to an increased caseload without an increase in judges, I fully expect that it will be reduced as we adopt more efficient practices. The important administrative issues that confront this Court and the federal judiciary as a whole remain unchanged. Judicial vacancies must be filled and increased caseloads must be dealt with. Thanks to our thirteen active and eleven senior judges, I am confident that we will carry into the future the Second Circuit's proud traditions of craft in decision-making and expeditious docket management.

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT**

[PHOTO UNAVAILABLE]

Chief Judge Robert N. Chatigny

JUDICIAL OFFICERS

On February 4, 2003, Alfred V. Covello took senior status after more than ten years of service as a District Judge, the last five as Chief Judge of the District Court. He was succeeded as Chief Judge by Robert N. Chatigny, the 12th person to serve the District Court in that capacity.

On June 12, 2003, President George W. Bush appointed Mark R. Kravitz to the seat vacated by Judge Covello. Judge Kravitz was sworn-in by Chief Justice William H. Rehnquist on August 18, 2003, thus becoming the 34th District Judge in the history of the Court. A formal investiture ceremony for Judge Kravitz was conducted at the New Haven Courthouse on November 10, 2003.

With the appointment of Judge Kravitz, the District Court returned to a full complement of eight active District Judges. The Court continued to benefit enormously from the work of its Senior District Judges, Ellen Bree Burns, Warren W. Eginton, Peter C. Dorsey, Alan H. Nevas, and Alfred V. Covello. Senior District Judge Gerard L. Goettel of the Southern District of New York, sitting by designation, also continued to provide exemplary service to the Court.

On February 28, 2003, Albert S. Dabrowski was appointed to succeed Alan H. W. Shiff as Chief Judge of the Bankruptcy Court, effective March 1, 2003.

Thomas P. Smith was appointed to a fourth term as a Magistrate Judge on September 26, 2003. His new eight-year term began November 1st.

The District Judges voted to seek the reappointment of Magistrate Judge William I. Garfinkel, whose first term expires November 22, 2004.

CASE STATISTICS

In 2003, the District Court opened 2,304 civil cases and disposed of 2,024 civil cases. At year-end, 3,159 civil cases were pending.

The Court opened 288 criminal cases involving a total of 368 defendants and disposed of 317 cases involving a total of 511 defendants. At the end of the year, 368 defendants had charges pending.

ATTORNEY DISCIPLINE

The Court opened 14 grievance cases; seven grievance cases were closed. Of the seven closed cases, four were dismissed; suspension orders entered in the others. One attorney was reinstated to active practice. At year-end, 23 grievance cases were pending.

CLERK' S OFFICE AWARDS CEREMONY

The annual awards ceremony honoring members of the Clerk' s Office was held in the Bridgeport Courthouse on April 11, 2003. Fidelis Basile, Alyssa Esposito and Kenneth Ghilardi received 10-year service pins; Maria Carpenter received a 15-year service pin; Victoria C. Minor received a 20-year service pin; Patricia Corbett received a 25-year service pin; and Sharon Collins received a 30-year service pin. Government Service Awards were given to Shirlee Ann Brown, who received a 10-year certificate, and Judi D' Auria, who received a 25-year certificate. Special Act Awards went to Cassandra Warren and Cheryl Conte for conducting food and toy drives for the benefit of local charities. Stephen Bates received the Rookie of the Year Award. Betsy Lopez received the Distinguished Service Award.

TRAINING

During 2003, the Court' s internal training programs focused on implementing the new Case Management/Electronic Case Files system.

In addition, the Clerk' s Office began offering CM/ECF training to members of the Bar and their staffs. Lawyers attending the training class received

CLE credit. An on-line tutorial for CM/ECF also was made available to the public through the Court's website.

At the Clerk's Office annual retreat, a program dealing with attitudes at work and interaction with co-workers was presented by the Clerk of the Middle District of Florida, Sheryl Loesch.

Federal Judicial Center programs on effective writing were presented to members of the Clerk's Office by Hillary Gaylin, Deputy Clerk, Eastern District of Virginia.

AUTOMATION

During 2003, plans were finalized for installing digital evidence presentation systems at each seat of court. The work is expected to be completed in 2004.

CONSTRUCTION PROJECTS

Construction of the new grand jury room in the Bridgeport Courthouse was completed in April 2003.

During 2003, two new construction projects were designated by the District Court as priority projects for funding. The first involves construction of a new courtroom on the third floor of the New Haven Courthouse. The second involves redesigning the witness box and expanding the jury box in Courtroom 2 of the New Haven Courthouse. The Space and Facilities Committee for the Second Circuit approved these designations and provided funds for the first project. Funds for the second project were allocated by the District Court, with the approval of the Second Circuit Committee. Both projects are scheduled to be done by the General Services Administration in 2004.

The Court provided GSA with design requirements for a new jury assembly room on the second floor of the Hartford Courthouse. Because the affected space previously belonged to the U.S. Marshal's Service, GSA is funding the project in its entirety.

LONG-RANGE SPACE PLAN

During the week of March 24, 2003, Elizabeth McGrath, Chief, Long-Range Space Planning, AOUSC, Scott Teman, Assistant Circuit Executive, and representatives from Fentress Associates, met with Chief Judge Chatigny, the Court Unit Executives, the Public Defender, the U. S. Attorney, the U. S.

Marshal, and representatives from GSA to update the Long Range Space Plan originally prepared in 1994. As a result of the meetings and subsequent comments, the Court received a final draft of a Long-Range Plan in December 2003. The draft makes it clear that the Court faces, and must soon confront, worsening space shortages, significant security risks, and other issues that may require building one or more new courthouses.

**UNITED STATES PROBATION OFFICE
DISTRICT OF CONNECTICUT
2nd Circuit Annual Report
Fiscal Year 2003**

NOTABLE EVENTS IN FISCAL YEAR 2003

Fiscal Year 2003 was a very busy year with several important events. First and foremost was the budget crisis. Receiving the budget so late in the year impacted all of us, delaying purchases, reducing services and forcing us to make tough choices in hiring. The District of Connecticut completed the Long-Range Space Planning process. This took place in March of 2003. In April 2003, the Probation Office went through a District Review, by the Probation and Pretrial Services Office. This process involved months of preparation and more than a week of review. We feel that the review was a positive experience and a worthwhile endeavor. Fiscal Year 2003 was a contract year for us for aftercare services. We also had to contract for electronic monitoring services as the national contract failed to meet our needs. Also, for the first time, we leased GSA fleet cars. The purpose of this was to reduce travel costs. We will evaluate this program in 2004 to determine if leased cars are a cost saving measure. We implemented PACTS ECM in 2003. This program was an eight-month process, with a live date of June 2003. And finally, utilizing some of the recommendations from the review, we fine-tuned several of our manuals, the most important one being the Internal Controls Manual.

STAFFING

At the close of Fiscal Year 2003, the Probation Office staff consisted of 57 individuals filling 56.2 full-time positions. We had two pending officer appointments on September 30th. These officers came on board the first week of FY 2004, bringing our total staffing to 59. The position categories were as follows, one chief and two assistant deputies, three supervising probation officers and 31 line probation officers, 19 administrative and clerical support and three automation support. Our statistical workload justified 67.94 positions, thus indicating we were understaffed eight positions, even with the two new officers. We intended to fill all vacant positions, however, additional hiring had to be put on hold, due to budget uncertainties.

During the year, our office was critically understaffed due to unfilled positions and officers out on extended leave, for illness or maternity/family leave situations. We were able to continue functioning despite our inability to hire, through the use of temporary help in officer and support job categories.

The District of Connecticut recognizes the need for a diverse staff. The hiring practices of the Probation Office reflect our Court's policy with the two largest minority groups, African Americans and Hispanics represented in our professional and support staff. Our officer and administrative professional staff are just about evenly divided by gender.

TRAINING

Training is a priority in the Probation Office. In FY 2003, a significant number of training hours were devoted to PACTS ECM. The total number of hours of training for PACTS ECM was approximately 700 hours. Other in-service training provided during the year included District Personnel Policies, Officer Safety, and Sentencing Guidelines. We take advantage of training offered by other agencies, especially those that cost little to nothing and do not require travel outside the District. Staff also has access to the FJTN at all three locations. They are provided a schedule and encouraged to view relevant programs of interest. Excluding training for PACTS ECM and FJTN training, probation office staff participated in 1,300 hours of training.

WORKLOAD

Pretrial: In 2003, the District of Connecticut experienced a slight increase in the workload. We activated 463 pretrial cases, down slightly from 2002. Officers attended 1,062 hearings. Thirty-seven violations were reported to the Court, with eight of them resulting on bond revocations.

In FY 2003, our detention rate began to decline, but the number of defendants on supervision increased. The changes are a reflection of a change in the focus of Government prosecutions to more white-collar crimes and fewer multi-defendant drug distribution cases. But, some credit should also be given to our Court for the attention and analysis of our role and contribution to our high detention rates. In response to our recognition of and the AO's criticisms of our high detention rate, Chief Judge Chatigny opened dialogue between Judges and Magistrate Judges, the Probation Office, the Federal Defender and the United States Attorney. Also, a local Criminal Law Committee was formed, which also included representation from the private bar. This committee was to serve as a forum for discussion and resolution of various matters of concern, including the detention rate. Additionally, Magistrate Judges and Probation Officers responded by making a sincere effort to find appropriate alternatives to detention.

Substance abuse and mental health treatment were provided to approximately 70 defendants in 2003. The total cost of treatment for all defendants was \$172,232. Approximately 95 defendants were released on home confinement during pretrial supervision. The cost for home confinement was \$31,925. Approximately 25% of all pretrial services costs were covered by co-payments from defendants, private insurance or State health insurance programs. Co-payments totaled \$51,475, reducing the cost to the Probation Office to \$152,683. This amount was a 36% increase above 2002 costs, reflecting an increase in the use of alternatives to detention, but still a bargain considering that the cost of detention averages \$68 per day or \$25,000 per year, per person.

Probation: The Probation Office completed 431 presentence investigations in 2003, a 29% increase above the prior year. This increase was largely due to several high-profile, multi-defendant cases reaching final disposition after pending for several years. We do not expect that rate of increase to continue.

We supervised 880 offenders in the community, up 6% from the prior year. The vast majority of our supervision cases are on supervised release or probation. The various types of parole cases make up less than 1% of all supervision cases. Of all supervision cases, nearly 100% have one or more special conditions that include community confinement, fines or restitution, substance abuse or mental health treatment.

Expenditures for substance abuse treatment totaled \$230,978, for the provision of services for approximately 140 offenders. Our actual expenditures for treatment were reduced by client and insurance co-payments, totaling \$26,735, reducing the actual costs to the Government to \$204,243. Mental health treatment costs totaled \$57,961, providing services for approximately 40 individuals. Co-payments totaled \$5,258, reducing costs to the Probation Office to \$52,258.

During FY 2003, 55 post-conviction offenders were placed on home confinement. Costs for these services were \$31,391. Offender co-payments collected totaled \$11,822, reducing the cost to the Probation Office by one-third, to \$19,570.

The total cost for all treatment and alternatives to detention was \$524,488. Co-payments collected totaled \$95,290, reducing our actual costs for all services to \$429,199.

The Probation Office is also a key player in the collection of fines and restitution. During FY 2003, the Probation Office recorded collections of \$83,635

in fines, \$342,103 in restitution and \$3,770 in special assessments, for a total of \$429,508.

PLANNED EVENTS IN 2004

A major event for our District in 2004 is the implementation of FAS₄T. This is a huge step for us, being a manual court. We will also be implementing the new supervision monographs for probation and pretrial services.

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**



Chief Judge Edward R. Korman

The population of the Eastern District of New York, which is one of the most populous judicial districts in the United States, increased over the last decade by 651,915, to 7.9 million. This was an increase of 8.5%. The 2000 Census indicated that much of that growth took place in the three counties of the City of New York that are part of the Eastern District of New York and in Suffolk County. A more recent update indicates that the population is likely to reach 8 million in 2004, or approximately 42 percent of the total population of the State of New York. The continued population growth, along with other factors, is responsible for the huge caseload borne by the judges of the Eastern District.

CASELOAD PROFILE

The Eastern District's judicial caseload profile remained high, but declined somewhat in 2003. Weighted filings per judgeship were 658, lower than last year's five-year high average. The Eastern District of New York remains first within the Second Circuit in weighted filings, and well above the national average of 532. Several other rankings of actions per judgeship also remain high, including total filings (553) – which is based on fifteen (15) judgeship positions when only thirteen (13) positions presently are filled; civil filings (449); pending cases (684); terminations (567) and trials completed (25). These statistics are through December 2003.

On September 30, 2003, pending total civil actions were 8,111, down from 8,536; civil case filings were 6,742, down from 7,601; criminal case filings were 1,293, down from 1,369; and criminal defendants totaled 1,927, down from 1,969.

This high workload per judge would not have been managed without the extraordinary assistance rendered by our senior judges. Six (6) of the nineteen (19) judges in the Eastern District are senior judges. Substantial assistance was also received from visiting judges. A total of 529 trial and non-trial bench hours were logged by eight (8) visiting judges who presided over 19 trials. A significant number of settlements also resulted from their efforts.

THE DELAYS IN FILLING VACANCIES

Our ability to process our heavy caseload has been undermined significantly by the delays in filling vacancies. We have not had a full complement of judges since February 1, 2001. The vacancy created when Judge Reena Raggi was appointed to the Court of Appeals for the Second Circuit on October 14, 2002 has not been filled. A second vacancy created when Judge Sterling Johnson, Jr. took senior status on June 1, 2003, also remains unfilled. Yet, another vacancy, which went unfilled for more than two years, was created when Judge Thomas C. Platt took senior status on February 1, 2001. On September 22, 2003, Judge Sandra J. Feuerstein was appointed. Judge Feuerstein comes to the Eastern District from the Appellate Division, where she was the first woman from Nassau County to be appointed to that court. She previously served on the New York State Supreme Court in Nassau County, and as Judge of the Nassau County District Court. She was educated at the University of Vermont, at Hunter College, and she received her J.D. degree from Benjamin Cardozo School of Law of the Yeshiva University, where last year she received the Distinguished Alumnus Award.

JUDGE JACOB MISHLER

The Judges of the Eastern District lost a treasured colleague with the death of Judge Jacob Mishler on January 26, 2004. Judge Mishler was appointed by President Eisenhower on July 6, 1960. He served for more than 42 years and as Chief Judge from 1965 to 1980. Judge Mishler was one of the ablest trial judges to grace the federal bench where he served longer than any judge appointed to our Court.

The qualities that made him so special were eloquently described by Gregory Wallance, one of his former law clerks, at a Special Session of the Court that convened on the occasion of the fortieth anniversary of Judge Mishler's appointment:

“ I deeply appreciate, from personal experience as a clerk in the late 1970s, Judge Mishler’ s skills in seeking objective truth, applying the law, and even down field running and punting. But what stands out for me is the extraordinary judicial humanity that he brings to the intensely human process that is the modern federal district court.

I remember the unusual human intuition that Judge Mishler brought to sentencing because, despite the Sentencing Commission’ s insistence, this is the most supremely human moment in the entire legal process.

I observed deadlocked, frustrated and angry juries that he calmed, not so much with words but by communicating, through his manner, his action and sympathy for their ordeal and optimism that more effort would ultimately be productive.

I recall the status conferences that Judge Mishler enlivened with humor and a wonderful, broad smile that relaxed otherwise-uptight attorneys and allowed everyone to get on with the business at hand. And I remember how much pure, sheer fun it was to be his law clerk.

So yes, applying the law is part of what judges do. But that alone in my view does not make a great judge.

We are here today to honor a great judge because not only does he extremely ably apply the law, but because he so skillfully understands and appreciates the people he is applying it to.”

HABEAS CASE PROJECT

The Eastern District had a backlog of approximately 700 pending Habeas Corpus petitions. Senior District Judge Jack B. Weinstein with his legendary generosity of spirit volunteered to accept all habeas cases reassignments, and also promised to resolve all cases so assigned before the end of the calendar year. A total of 500 Habeas Corpus cases were assigned to Judge Weinstein in May 2003, and all 500 cases were decided by December 2003. An extensive written report suggesting administrative action to avoid future backlogs in deciding Habeas Petitions also was prepared by Judge Weinstein and issued on December 11, 2003. Writs were granted in ten (10) cases and, in 68 cases, a certificate of appealability was granted by Judge Weinstein. The Board of Judges owes a debt of gratitude to our senior colleague, who continues to work as hard, if not harder, than any district judge anywhere in the United States.

THE JUDICIARY BUDGET

The Judicial Branch is experiencing a severe budget crunch. The results of this funding shortfall are being felt throughout the judicial system, most particularly in the district courts and their Clerk' s Offices. In the Eastern District of New York, the Clerk' s Office, Pretrial Services, and the Probation Service have been significantly affected by the current budget crisis. The Clerk' s Office started the fiscal year with an estimated shortfall in the personnel account well in excess of a million dollars. In July, 2003, the Clerk' s Office staff was at 162 permanent staff positions. Presently, the Clerk' s Office is down to 152 positions, and must reduce staff to 142 positions. There is a hiring freeze on all replacement staff needs, a freeze on grade increases, a freeze on even minor longevity bonuses, and five staff members have accepted buy-out retirement offers. The balance of the salary shortfall is coming out of our automation and general accounts, even after these non-personnel accounts had been reduced by approximately 32 percent, as mandated by the Judicial Conference.

The outlook for FY 2005 is not any better. Funding levels for the Clerk' s Office are projected to drop even further, and may only support a total of 132 permanent staff. The budget crunch was intensified by a decision by the AO to reset salary allotments, separate from, and even prior to, a final fiscal year budget, so there was a double salary reduction in FY 2004. Further adjustments to the so-called " work measurement formula" are projected for FY 2005, so this double reduction effect will likely be repeated. A loss of 30 staff positions, if the 132 staff level projection in FY 2005 proves accurate, will be an unprecedented 18.5 percent drop in personnel within less than two years.

BROOKLYN COURTHOUSE

The construction of a new Brooklyn courthouse began with a groundbreaking ceremony on February 7, 2000. The project is way behind schedule. A second building project, the renovation of the Brooklyn Post Office, a part of which will be occupied by the Bankruptcy Court, is also behind schedule. The Brooklyn Courthouse Project has been troubled from the very beginning by the manner in which GSA managed the budget and contracting process. GSA' s failure to recognize and act decisively in an escalating construction market resulted in a series of redesign efforts that took the project from an eighteen-story building to the fourteen-story building now under construction. The February 1998 bid on the eighteen-story building was only seven million dollars over budget. Unaware of the amount of available funds, and unwilling to negotiate the difference, GSA ignored the advice of its consultants and insisted that the size of the project be scaled down to fourteen stories at a redesign cost of 2.7 million dollars. The final bid on the fourteen-story building which GSA accepted in September 1999, was twenty-one million dollars over budget.

The fourteen-story building now under construction is capable of housing sixteen district courtrooms and chambers and eight U.S. magistrates courtrooms and chambers, barely enough for the present complement of judges and magistrates sitting in Brooklyn, and not enough to house the number of judges who are likely to be sitting there when the project is completed. Nevertheless, GSA proposed to build out only twelve district courtrooms and chambers and four courtrooms and chambers for U.S. magistrate judges. Since GSA demolished an otherwise useful office building adjoining the present courthouse, which contained four courtrooms and which would have cost tens of millions of dollars to construct, the project as contemplated by GSA would have resulted in a net increase of eight district courtrooms and four magistrates courtrooms at a cost of 208.57 million dollars.

This shortsighted plan would also have ultimately cost the taxpayers far more money in years to come when the combined facilities in the present courthouse (with ten district courtrooms) run out of space. Moreover, it would have delayed and made more expensive the long-planned renovation of the present courthouse, because it would have to have been accomplished while the building was occupied.

Our concerted efforts succeeded in reversing the proposal of GSA to construct a fourteen-story building of which a third would have been an empty shell. The Omnibus Appropriation Bill for FY 2003 appropriates the additional 39.5 million dollars needed to build out the remaining eight (8) courtrooms and chambers in the new Brooklyn Courthouse. Our efforts, which overcame the lack of support from GSA, were assisted by the Brooklyn/Queens/Staten Island delegation in the House of Representatives, especially Representative Jerrold L. Nadler, and by Senator Hillary Clinton who is a member of the Senate Public Works Committee. Nevertheless, the overall project is 28 million dollars over budget. The General Services Administration has identified sufficient funds for reprogramming from other available funds. GSA will request that OMB approve the administrative transfer of these funds.

The projects, District and Bankruptcy, have yet again been delayed due to the bankruptcy of the general contractor, JA Jones Construction. The General Contractor's surety company, Fireman's Fund, has accepted their liability and entered into an agreement with Bovis Lend Lease to complete both projects. The new estimated completion dates (although not official) are March 2005 for the Bankruptcy Court, and October 2005 for the District Court.

GSA has spent all of the \$39.5 million appropriated for our eight (8) additional courtroom and chambers just to keep the jobs going. It will be requesting an additional \$74.7 million in reprogramming authority in May to complete both projects. The source of that money will be the \$65 million Congress

appropriated this year for the Repair and Alteration project on the current Cadman Plaza building, and \$9 million from some other undisclosed source. GSA then intends to again ask Congress for Repair and Alteration money for Cadman Plaza in the amount of \$91 million in the 2006 budget. The extensive delays encountered in delivering the new Brooklyn Courthouse required a re-evaluation of the longstanding plans for the complete repair and renovation of the existing courthouse. The plan, first designed ten years ago, called for the complete vacating of the existing courthouse to enable a long overdue and needed repair. While the construction project lagged, judicial staff increased. We now will have to retain three full floors in the existing courthouse after completion and occupancy of the new courthouse. The entire Repair and Alteration project will have to be re-examined as to scope, feasibility and cost at that time.

Both projects are tens of millions of dollars over budget and four years behind schedule. Indeed, we estimate that at least \$100 million of taxpayer dollars have been squandered by GSA. A number of GSA's estimated occupancy dates have come and gone. There is no reason to believe that the current projections will be met. The only positive aspect of this mess is that the current Administrator of GSA, Stephen Perry, has taken a personal role in the project and has removed responsibility for it from Region II. We are grateful to him for his efforts to complete the project.



Detailed reports on operations throughout the Eastern District with statistical information for fiscal year 2003 (October 1, 2002 through September 30, 2003), and in some instances through December 2003 are set forth below.

THE BANKRUPTCY COURT

Bankruptcy Court case filings in Fiscal Year 2003 increased overall by 3.5 percent. Total cases filed were 25,733. Chapter 7 filings increased by 4.0 percent, to 19,856; Chapter 11 filings increased by 14.2 percent to 209; and Chapter 13 filings increased by 1.6 percent, to 5,667. In addition, 1,345 adversary proceedings were opened.

The Bankruptcy Court, effective January 1, 2003, requires all motions, pleadings, memoranda of law or other documents filed by an attorney in connection with a case, other than proofs of claim, to be electronically filed or submitted on a diskette in PDF format. Previously, from April 1, 2002 through December 31, 2002, this requirement only pertained to Chapter 11 petitions and pleadings. *Pro se* filers continue to file their petitions and pleadings using traditional methods since the Court does not permit them to file electronically.

Judge Elizabeth S. Stong was appointed to the Eastern District's Bankruptcy Court on September 2, 2003. Judge Stong replaced Judge Dorothy Eisenberg who retired on March 27, 2003. The Second Circuit immediately recalled Judge Eisenberg due to continued high case filings in the Bankruptcy Court.

The Bankruptcy Court lost a special colleague with the death of Judge Cecelia H. Goetz on January 18, 2004. Judge Goetz was an outstanding member of the Bankruptcy Court, serving first at the Brooklyn Courthouse, and later at the Long Island Courthouse from 1978 until 1993 when she retired. Judge Goetz graduated *cum laude* in 1940 from New York University Law School, where she was the first woman to serve as Editor-in-Chief of the NYU Law Review. Shortly after her graduation, she entered a career in government service, which included a post as Special Assistant to the Attorney General. After World War II, she went to Nuremberg as part of the staff of the Office of Chief Counsel for War Crimes, where she participated in the prosecution of major German industrial complexes. Before becoming a bankruptcy judge, she had been a partner in her father's firm, and had then spent years in association with several prestigious law firms in New York City, finally ending her career as a partner in Herzfeld & Rubin, P.C. At the expiration of her six-year term as a bankruptcy judge in 1978, she was reappointed in May of 1985 by then Chief Judge Jack B. Weinstein for a term of 14 years. Known for her learned opinions and as an extraordinarily capable bankruptcy judge, she was cited in many opinions by other bankruptcy judges and appellate courts throughout the nation.

THE MAGISTRATE JUDGES

Our magistrate judges were assigned the full range of civil and criminal case responsibilities authorized by 28 U.S.C. § 656. Magistrate judges were referred a total of 6,545 pending civil cases in Fiscal Year 2003 for pretrial preparation, a 4.6 percent decrease over the high level of the prior fiscal year. Criminal case assignments include detention hearings, acceptance of guilty pleas, jury selections, and pretrial hearings. Civil trials, on consent of the parties, and misdemeanor criminal trials remain a significant responsibility of the district's magistrate judges.

The Board of Judges limited the term of Chief Magistrate Judge to three years in 2000, with each future Chief Magistrate Judge to be determined by seniority. Chief Magistrate Judge Joan Azrack has served in this administrative capacity with distinction. Effective April 2004, U.S. Magistrate Judge Michael L. Orenstein will become Chief Magistrate Judge succeeding Judge Azrack.

Due to the heavy and substantial criminal and civil case workload assigned

to Eastern District magistrate judges, a survey of our magistrate judge utilization was conducted by the Administrative Office of the United States Courts, and the Judicial Conference of the United States subsequently authorized two (2) additional full-time U.S. Magistrate Judge positions for the Eastern District. The Magistrate Judge Selection Committee recommended ten final candidates to the Board of Judges, and interviews were held by the Board with the expectation that both positions will be filled by early summer, 2004. On March 17, 2004, the Board of Judges selected Kiyo Matsumoto and James Orenstein to fill the new U.S. Magistrate Judge positions at Brooklyn and Long Island, respectively.

PROBATION DEPARTMENT

The work of the Probation Department remained at essentially the same high levels as in 2002, and supervised 3,709 individuals, and conducted 3,747 investigations in Fiscal Year 2003. Separately, collateral reports (requests from other federal districts) totaled 856, a decrease of 14 percent.

Chief Probation Officer James M. Fox retired on January 2, 2004. The Board of Judges appointed Tony Garoppolo, who was Deputy Chief Probation Officer since July 2000, to succeed him. Mr. Garoppolo is an acknowledged expert on the U.S. Sentencing Guidelines, and is the author of "The Sentencing Reform Act, A Guide for Defense Counsel." The third edition was recently published by the Federal Bar Council.

PRETRIAL SERVICES

Pretrial Services conducted 2,234 bail investigations in FY 2003, a decrease of 7.8 percent over 2002. Separately, pretrial supervision cases, a significant part of the workload, totaled 899, a number not reported last year. Collateral investigations increased by 25 percent to 185 cases. There also were 49 diversion investigations, and 43 diversion supervision cases.

ADR PROGRAMS

A total of 390 civil cases, representing 5.8 percent of new civil filings, were assigned to the mandatory Arbitration program for cases valued at \$150,000 or less. The Mediation program for complex civil actions had a total of 191 cases referred, representing 2.8 percent of civil filings during Fiscal Year 2003. Sixty-six (66) cases were settled through mediation.

Our ADR website (<http://www.nyed.uscourts.gov/adr/>) posts extensive

information on the ADR program, including the names of mediators and arbitrators listed by speciality; a schedule of pending mediations and arbitrations, by case, date and time; and information on ADR procedures; Local Rules for Arbitration and Mediation and other general ADR information. The ADR Committee, chaired by Magistrate Judge Robert M. Levy, held its third annual ADR workshop in 2003. A review of ADR procedures with the assistance of the Federal Judicial Center and private ADR experts also was conducted this year.

THE CJA PANEL

The CJA Panel Committee, chaired by Judge Frederic Block with judicial members Judge Joanna Seybert, Magistrate Judge Michael L. Orenstein and Magistrate Judge Cheryl L. Pollak, completed its annual review of the CJA Panel membership, and held the district's third annual training workshop for Panel members in November 2003.

The CJA Panel Committee also added specialized Habeas Corpus and Capital Case Panels to the available counsel resources for the Court's discretionary use in assigning counsel in these case categories.

NATURALIZATION CEREMONIES

The Eastern District of New York remained one of the busiest jurisdictions in the country for the naturalization of new citizens, despite a decline of 14.7 percent in the number of final naturalization hearings scheduled by INS, now part of the new U.S. Department of Homeland Security. The Eastern District of New York naturalized 40,245 new citizens in Fiscal Year 2003 at the Brooklyn Courthouse. The Court continues to hold four (4) naturalization hearings each week throughout the year. Only one other judicial district court, CA-Central, naturalized more citizens this fiscal year.

COURT ADMINISTRATION

The district court and Clerk's Office continued to move toward full participation in the Electronic Case Filing (ECF) system in 2003. An additional three (3) district judges were added as participating judges in electronic filing during the fiscal year. A total of thirteen (13) of the district's nineteen (19) active and senior district judges now participate fully in civil electronic case filing, and all thirteen (13) current magistrate judges participate fully. Two of the remaining six (6) district judges have had one or more large civil cases on the electronic filing

system now or in the past. The district hopes to move toward full participation in the future.

The Clerk's Office transferred all docketing from the old ICMS database to the ECF database on May 11, 2003, representing another major clerical step in the availability of e-filing for all dockets. Although criminal cases are not yet filed electronically, the Clerk's Office is electronically filing all initiating documents (indictments and informations); Judgment and Commitment Orders; and any memorandum and order of major public interest.

JURY ADMINISTRATION

The district's percent of underutilized jurors dropped slightly in 2003 to 41.7 percent. This has moved the Eastern District of New York very close to the national average for all district courts, which was 40 percent in 2003. The district's number of high profile cases and questionnaire cases for jury panels often results in higher utilization percentages. Although the Eastern District of New York has more than its share of both, juror utilization has improved this year. The Court's goal is to get below 40 percent in unused jurors, or at least equal or do better than the national average in the year ahead.

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK**



Chief Judge Frederick J. Scullin, Jr.

JUDICIAL RESOURCES

_____ The Northern District is authorized five Article III positions. Magistrate Judge Gary L. Sharpe was elevated to a seat on the District Court Bench on January 29, 2004. Judge Sharpe filled the vacancy created by Judge Thomas J. McAvoy when he assumed senior status on September 17, 2003. Judge Sharpe joined the Northern District bench in 1997, and served as a United States Magistrate Judge up until his appointment as a United States District Court Judge. Prior to joining the bench he served as the United States Attorney for the Northern District of New York. Judge Sharpe moved his chambers from Syracuse to Albany to help the Court deal with the workload on the eastern half of the district. On February 10, 2004, Magistrate Judge George H. Lowe was sworn as our newest Magistrate Judge. Magistrate Judge Lowe filled the vacancy created by the elevation of Judge Sharpe to the District Court bench. Magistrate Judge Lowe was previously a partner in the Law Firm of Bond, Schoneck and King, LLP in Syracuse. Magistrate Judge Lowe also served as the United States Attorney in the Northern District from 1978 to 1982.

During 2003, the Court received designations for seven visiting judges to help us resolve our backlog of pending prisoner cases. Each of these seven

judges agreed to sit by designation for a period of one-year, during which time they handled motions and trials on pending prisoner civil rights cases. The seven visiting judges issued decisions in 48 dispositive motions and closed 34 prisoner cases during 2003. Our thanks go out to the Honorable Warren W. Eginton - District of Connecticut; Honorable Lyle E. Strom - District of Nebraska; Honorable G. Thomas Eisele - Eastern District of Arkansas; Honorable Joseph M. Hood - Eastern District of Kentucky; Honorable John R. Tunheim - District of Minnesota; Honorable Paul A. Magnuson - District of Minnesota, and the Honorable James K. Singleton - District of Alaska. For the upcoming year, we have already secured the services of five judges who have indicated their availability through the intercircuit assignment system to assist courts with pending motions. With these additional resources, we are hopeful that we will be able to further reduce our pending prisoner caseload.

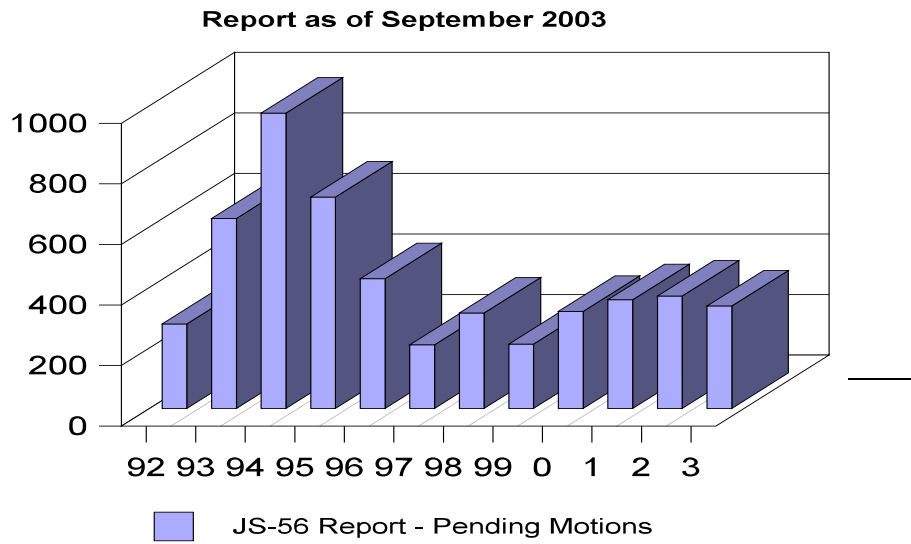
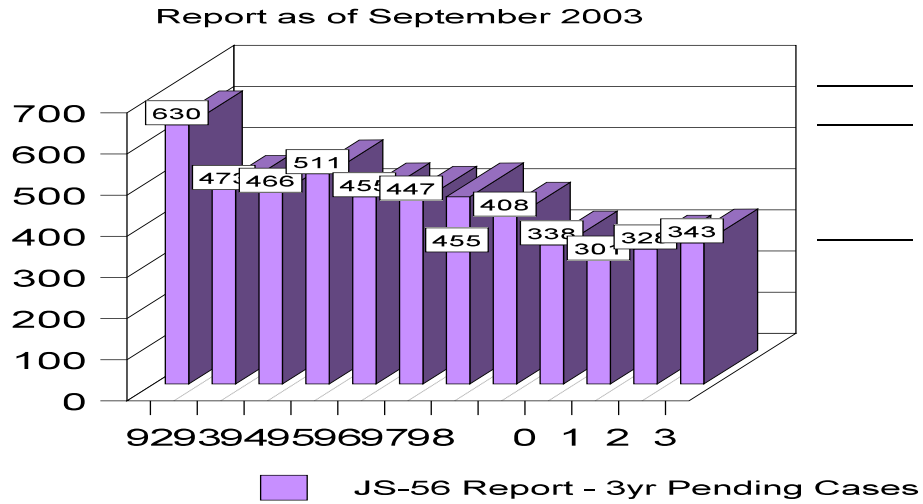
Senior Judges Howard G. Munson and Neal P. McCurn continue to take a variety of cases and provide valuable assistance to the Court. We are indebted to these judges for their many contributions over the last two and one half decades. We welcome Senior Judge Thomas J. McAvoy who will continue to take a full caseload.

STATISTICAL DATA

_____ Our most challenging task over the last five years has been in addressing the case pending docket. New civil filings fell slightly from the previous year, filings were down by **8.6%** in statistical year 2003. The number of criminal filings rose in SY 2003 by **3%**. Some of the increased activity in our criminal filings was attributable to the increased law enforcement presence at our Northern border. The number of trials completed per judge in SY 2003 decreased slightly when compared to SY 2002, this seems to be consistent with the decrease experienced by courts on a national level.

PENDING MOTIONS AND THREE YEAR PENDING CASES

_____ The disposition of motions is critical to the efficient operation of the Court. The Court filed **2,728** motions during statistical year 2003. During the same time period the Court disposed of **2,888** motions. As reflected in our JS-56 Report on Pending Motions and Cases Pending for Three Years or more, the district's pending motions (*as of September 30, 2003*) increased **5.2%** over 2002, and three year pending cases increased **10%** over 2002.



SPACE AND FACILITIES

_____ **Albany:** A new grand jury room will be constructed in Albany. We had hoped to have this project completed in 2003, however, funding issues have delayed the project. The new projected completion date is April 2005.

Syracuse: The Judicial Conference has recommended that a new United States Courthouse be constructed in Syracuse. The current plan is for site selection and design in FY 2006, funding in FY 2008 and completed construction in FY 2010. However, this schedule will most likely be delayed due to national budget issues concerning space and facilities projects. Construction on our special proceedings courtroom was completed in March of 2003. Judge David E. Peebles moved into his new chambers and courtroom in June of 2003.

DISTRICT COURT CLERK' S OFFICE

_____ During 2003, the District Court Clerk' s Office began the process of preparing both the bench and bar for the implementation of the new case management / electronic case filing system known as CM/ECF. During the summer months, the Clerk, Lawrence K. Baerman, and Chief Deputy Clerk John Domurad, traveled throughout the district to present information and provide demonstrations on the new system to the bar. The Court worked closely with our Federal Court Bar Association on the development of the rules and procedures for the bar to follow when filing electronic documents. In November, the Clerk' s Office began training the bar. In the course of the last few months, the Clerk' s Office has trained over 2,500 lawyers. The first full month of filing (January of 2004) resulted in over 15% of the total filings coming in over the internet. The bar and bench have found the system to be reliable, user friendly and cost effective.

Budget issues were once again a major concern for the Clerk' s Office and the Court. In the Northern District, we have lost nine staff members in less than three years due to budget cuts coupled with a decline in the number of filings. The Clerk has worked closely with the Probation Office on a project that will consolidate several of our administrative support services. Automation, human resources, personnel, budget and finance have or will be consolidated within the next year. This initiative will allow the units to continue to provide the highest possible level of service to the bench and bar while absorbing what we expect to be significant reductions in future staffing levels.

PROBATION / PRETRIAL OFFICE

_____ The Probation Office is experiencing a slight increase in workload following two years of a downward cycle. Like other districts, budget cuts and decreasing caseloads have affected our staffing. We have lost authorized work units, and through attrition, our staffing has decreased as well. We are or will be well below our full work strength by the end of this fiscal year.

In Albany, after a long process, we are nearing the end of our renovation projects. Our first floor space is undergoing a small renovation while our third floor space is undergoing major reconstruction. Both projects should be completed during FY 04. This will satisfy the Probation Office's space requirements as well as bringing it up to court standards.

In the area of operations, one major initiative is the investigation and monitoring of individuals involved in cybercrime offenses. In the new age of the 21st century offender, computer crimes, including frauds committed via the internet and access to websites promoting child pornography, have presented new challenges in supervision. In order to enforce Court imposed restrictions on computer use, the Probation Office has employed internet monitoring technology which allows the Probation Office to determine if offenders are accessing inappropriate Internet sites. Supervising cybercrime defendants presents the additional challenge of keeping pace with the latest trends in information technology because as the technology improves, our detection and monitoring devices will need to keep pace to adequately supervise this more technically sophisticated offenders.

ATTORNEY DISCIPLINE REPORT FOR 2003

_____ In calendar year 2003 the Northern District had the following attorney discipline cases.

Five Attorneys were disbarred.

Five Attorneys were suspended.

A stay of suspension was issued for two attorneys.

Four Attorneys were censured.

Seven Attorneys were reinstated following suspension.

NORTHERN DISTRICT OF NEW YORK BANKRUPTCY COURT

_____The Bankruptcy Court for the Northern District of New York focused most of its attention on CM/ECF in 2003. The Court went live on CM/ECF on December 28, 2002 and devoted most of 2003 to putting processes and procedures in place to support CM/ECF. The training of internal and external users occurred throughout the year. Training for attorneys began in early spring and continued throughout the year in both Albany and Utica. Attorneys were provided with hands-on training by the Court's trainers and were eligible for seven hours of CLE credit. In addition, members of the Court's staff spoke at several seminars sponsored by the local bankruptcy bars. Training for standing trustees and panel trustees also occurred in 2003. At the end of 2003 only three panel trustees were not yet trained. Plans were also made to train the Assistant United States Trustees in early 2004. The conversion to CM/ECF required the Court to undertake a complete work flow analysis of the flow of paper and information in the agency. The completion of the work flow analysis required the Court to revamp and revise most of its existing case processing procedures. During the latter half of 2003, creditors were allowed to electronically file proofs of claims and transfers of claims. Some of the larger creditor filers brought on board include Beckett and Lee and Sears. Out-of-district attorneys were also allowed to file electronically upon passing the Court's on-line test. In November 2003, members of the bar received notice of the Court's intention to mandate electronic case filing on July 1, 2004. Scanners were purchased for placement at the public counters and plans are underway to allow attorneys to scan documents to the Court from the public counters.

Although most of 2003 was devoted to CM/ECF tasks, a long planned space project was finally completed. Unused chambers space was transformed into a conference room and suite of offices for the Clerk and his administrative staff.

ANNUAL REPORT OF THE NORTHERN DISTRICT OF NEW YORK
ON GENDER, RACIAL AND ETHNIC FAIRNESS
IN THE COURT

_____The Northern District of New York is committed to the fair and equitable treatment of all those that appear before the Court or are employed by the Court. The Court remains mindful of the need to protect against bias based on other grounds, such as sexual orientation, disability, national origin, religion and age.

The Court has continued the practice of providing pro se litigants with pro bono counsel to assist them at the trial stage of their cases. In addition, the Court has extensively used video conference technology to accommodate financially challenged litigants by providing them with an avenue to avoid travel costs associated with appearances before the Court.

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK



Chief Judge Michael B. Mukasey

During the past year, three judicial vacancies were filled. Stephen C. Robinson was inducted on October 30, 2003, P. Kevin Castel was inducted on November 4, 2003 and Richard J. Holwell was inducted on November 20, 2003. One vacancy remains open. I note with extreme sadness the passing of two of our distinguished colleagues, the Honorable Allen G. Schwartz on March 22, 2003 and the Honorable Robert J. Ward on August 5, 2003. They made important contributions to the Court, and their presence will be missed. The past year also saw the retirement of the Honorable John S. Martin, Jr. who had served with distinction since his appointment in 1990. His outstanding service to the Court is to be commended.

For the period October 1, 2002 to September 30, 2003 there were 12,321 cases filed.

During the past year, the Board of Judges amended Local Civil Rule 5.2 relating to electronic service and filing of documents and approved Local Civil Rule 5.3 relating to service by overnight delivery and facsimile, and 12.1 relating to notice to *pro se* litigants opposing motions to dismiss or for judgement on the pleadings treated as motions for summary judgement. The Court's Lawyers Advisory Committee on Local Rules also reviewed the revisions.

Also, during the past year, the Court adopted a district-wide Continuity of Operations Plan (COOP) which has been used as a model plan for other districts.

CLERK' S OFFICE

The Clerk' s Office for the Southern District of New York operates with a staff of 216 employees with offices at Foley Square and 500 Pearl Street in Manhattan and at 300 Quarropas Street in White Plains. The Clerk' s Office provides record keeping, case management, financial and other services for the District Court. The operating budget for Fiscal Year 2003 was \$ 12,913,576 for personnel, automation and administrative expenses.

During calendar year 2003, the Clerk' s Office went live with the CM/ECF (Case Management/ Electronic Case Filing) program. All civil and criminal docketing events have been converted from the existing ICMS program to the new system. The Clerk' s Office has created a docket support team to plan, train and execute the CM/ECF process for Chambers staff, court employees and members of the Bar and the Public. The first wave of District Judges and all Magistrate Judges began accepting electronic filings in new cases on December 1, 2003. The remaining Judges will join the system over the course of the next year.

The financial and systems staff of the Clerk' s Office spent much of the second half of the year preparing for the implementation of FAS4T, a new automated financial system. Preparation included training, workflow process mapping and development of new security controls.

Individual departments of the Clerk' s Office report some of the following activities in the year 2003:

White Plains: The White Plains Courthouse saw signs of continued growth in 2003. One thousand one hundred and thirty four new civil cases were filed in White Plains in 2003. The Hon. Stephen C. Robinson, U.S.D.J., took the bench in White Plains in October. This returned the White Plains Court to its full complement of four District Judges and three Magistrate Judges. The Clerk' s Office staff increased by two employees to help accommodate this growth. As of December 1st, all Judges in White Plains began requiring cases to be electronically filed as part of the Court' s ECF program. After two years of preparation and training the inauguration of the ECF program is expected to streamline the docketing process by reducing paper filings.

Jury Department: The Jury Department has been working on the new Jury Management System (JMS) for over one year. The system has produced some

challenging scenarios when producing jurors to the Judges, establishing follow-up instructions for returning jurors, as well as payroll situations. During 2003, we submitted various modification requests to the software provider and to the Administrative Office of the U.S. Courts. Some of these modification requests were ground-breaking procedures for JMS and between the A.O., ACS (software company) and SDSD in San Antonio Texas, these modifications made the final product. JMS also requires us to qualify jurors on a larger scale and throughout the year we sent out close to 200,000 questionnaires for Pearl Street and White Plains. We were able to qualify over 40,000 jurors for the year 2003 alone and in light of the anticipated busy year of 2004 (including high profile cases such as Martha Stewart, Lynne Stewart and Rigas) we anticipate the abilities of this department and its staff to be tested to the fullest.

Finance: In 2003, The Finance Department issued 36,649 checks and processed 14,276 vouchers. At the intake window, 10,333 complaints were filed and 53,971 receipts were issued. For the year. the office receipted \$118,527,618.39 and disbursed \$111,075,895.54. The office oversaw 299 interest-bearing accounts and 766 non-interest-bearing registry accounts. At the end of the year, the balance in interest-bearing accounts was \$239,897,507.25.

Personnel: During calendar year 2003, the Personnel Section processed personnel actions for the designated court staff such as appointments, separations, promotions, retirement information; disseminated benefit information and processed forms; provided Open Seasons for FEHB and TSP changes; and recruited for available positions, prepared vacancy announcements, and assisted managerial staff with interviews and testing. The need for background checks on all new employees, interns and contracted staff has become routine. A hiring freeze at the end of the year due to greatly reduced budget allowances has prevented the court from filling vacancies and has required the development of new strategies to meet operating needs in the coming year.

Training: Much of the year was dedicated primarily to coordinating training operations for the Court's conversion to CM/ECF. CM/ECF training was provided throughout the year to Clerk's Office employees, Judges, Magistrate Judges, Chambers Staff, Probation, Pretrial, Court Reporters, Press Agents, Federal Defenders and US attorneys, based on their required job performance duties. In addition, the training department continued throughout the year to provide CM/ECF training to members of the bar and their legal staff in both civil and criminal cases.

The highlight event of the year for the training department was the opening of a new state-of-the-art training room which is used to conduct training operations

for the District Court and is shared with other agencies to engage in large training events.

Audio-Visual: The Audio-Visual Department has completed installation and commenced operation of the multi-media displays in courtrooms 12D and 110. These multi-media systems allow the parties to an action to display exhibits and other case-related materials to the judge and jury in electronic form. Additionally, there are two mobile multi-media systems which can be set up in any courtroom upon request. Testing has begun on the Courtflow Audio Digital Recording System. Currently, the system is being used to record pretrial conferences. Results are very promising, and four additional systems are waiting to be installed after preliminary testing results have been fully reviewed. Anticipated installation of these additional systems is Summer of 2004.

The Audio-Visual Department helped design and plan the District Court's new training room, located at 500 Pearl Street, Room 249. The training room facilitates video-conferencing, tele-conferencing, and Smart Board annotation integrated into a video projection system. The Audio-Visual Department also designed and planned a state-of-the-art teleconferencing system in conference room 850.

The Audio-Visual Department also organized over fifty video-conferences for the Court, including three video-conferences for the Federal Bar Council's CLE programs involving sites located in Syracuse, Buffalo, White Plains, Albany and the Eastern District of New York.

Transcripts produced from audio-taped proceedings continue to grow. This year, the Department was instrumental in coordinating the production of over 1,200 transcripts. The Department now uses a digital fingerprint imaging system in the processing of new employees and student interns. This past year, the Department has processed over 500 new employees and student interns.

Records Management: During calendar year 2003, the Records Management Department handled 57,675 requests for files between the open records room and the closed records room at 500 Pearl Street and the file room at Foley Square. The office processed 1,635 opinions from the Judge and Magistrate Judges. During the year, the office generated \$143,438.00 through written correspondence and printing of docket sheets from ICMS. The Records Management Department received and logged 4,775 sealed envelopes and 318 subpoenaed records in 2003.

Computer Systems: During calendar year 2003, the Court inaugurated the new CM/ECF electronic case filing system, with nearly two dozen chambers going to a "totally electronic" docket for new cases filed as of December 1st. Additional chambers are scheduled to make the transition to the new system during 2004. The Computer Systems Department purchased and deployed scanners, additional computers, and trained the Court's training staff in the use of this new equipment. The new CM/ECF system necessitated the creation of an e-mail-based document exchange system with the bar and the Clerk's Office. This was designed, assembled and deployed throughout the Court in a matter of two weeks in order to assist the staff to manage a large and rapidly growing quantity of electronic documents.

We made great strides this year with respect to the centralized, remote administration of our nearly 1,100 desktop computers. We possess the capability to deploy urgent software patches, regular updates, and certain types of new application software on an as-needed basis to all the computers under our care irrespective of whether the PCs are in the courthouse or at employees' homes. As a result of these efforts, we have been almost entirely immune from this year's spate of computer viruses, worms and Internet-borne malicious mischief.

Multi-year Disaster Recovery and Continuity of Operations initiatives continued during 2003 in which the Court purchased laptop computers, secure wireless networking hardware, and advanced encryption and VPN software, to permit judges and select Clerk's Office staff to conduct all regular business from home, if necessary, during an emergency that might otherwise shut the courthouse proper.

One unofficial test of our emergency preparedness capability was conducted during the "Great Blackout" of August, 2003. In this situation, the Court's data center at 500 Pearl Street operated in its entirety, without a moment's interruption, throughout the entire blackout by virtue of the building's own electrical generating capability. Continuous, real-time connectivity with the DCN and the Internet was demonstrated during this period. As power was restored to various residential areas, remote access to e-mail and court files was immediately successful.

All this notwithstanding, a great deal of telecommunications and other infrastructure work remains to be completed in this area during 2004 and beyond, specifically with regard to the off-site, real-time replication of the Court's electronic data, backup electrical systems at White Plains, and the integration of the new CM/ECF and FAS4T systems into our fault-tolerant operational environment.

The Computer Systems staff has continued the work begun last year with respect to wireless computer networking, encryption technologies, firewalls and geographically distributed systems. We continued to make recommendations to the Administrative Office with regard to these technologies, as well as for the elimination of "spam" from the judiciary's e-mail systems, and have communicated to them our findings with respect to fault-tolerance and disaster recovery practices.

We successfully deployed six Macintosh laptop computers and two Macintosh file servers within the Court's all-Windows infrastructure. The machines are a joy to use and they interoperate seamlessly with our extant hardware inventory, demonstrating that these are cost-effective replacements for Windows systems of all stripes.

We have also successfully introduced several Linux systems into our back office operations in anticipation of the judiciary's transition from Solaris to Linux in the next year or so.

We conducted our first live trials of the CourtFlow system, which makes audio recordings instead of typed transcriptions, of court proceedings.

We began the implementation of the new FAS4T accounting system, which is to scheduled to go live on March 1, 2004.

Magistrate Judges Unit: The Magistrate Judges Unit has seen several changes in the past Year. First, we have gone in full capacity on the Electronic Case Filing System, and second, as of the beginning of January 2004, in an effort to backup Sealed Vital Records (COOP), we began storing Seizure/Search Warrant and Pen RegisterInfo on 3.5" Computer Discs. Upon completion of filling all disc space, the disc is copied onto another 3.5" disc and forwarded to the White Plains Courthouse as a back-up, in the event that the records in Manhattan become damaged or inaccessible.

Mediation Department: During 2003, the Mediation Department relocated to 40 Centre Street, Suite 205. The Mediation Department provides services for the courts in Manhattan and in White Plains. Hundreds of new and adjourned cases were scheduled for mediation sessions during the calendar year. Local Civil Rule 83.12 governs the Court' s mediation program.

Interpreters Office

SDNY Interpreter Usage: In FY 2003, interpreters of 36 languages provided foreign language interpretation during 6,152 separate proceedings, a six

percent increase in activity over last year. Of these, 4,126 were in-court events, a marked increase of 27% over last Fiscal Year. Out-of-court events (pretrial, probation, attorney-client interviews, document translations) totaled 1,930 for all languages. [Note: Interpreter usage figures are reported to the Administrative Office of the U.S. Courts for fiscal years, not calendar years.]

Spanish continues to be the most frequently requested foreign language, but in FY 2003, only 55% of the total interpreter unit caseload was for Spanish, a dramatic drop from the previous year when Spanish represented 78% of the cases covered. The next most frequently requested languages remained the same as in previous years: Russian, Arabic, Mandarin and Fuzhou. Requests for Punjabi, Pashto and Urdu increased noticeably over previous years.

Total expenditures on interpreter services, paid from a central Administrative Office account, was \$542,358, only a slight increase over FY 2002, despite the increase in interpreter activity. A total of 46 criminal trials required foreign language interpretation: 33 Spanish, four Fuzhou, three Russian, two Arabic and one each in Bengali, Fulani, Hebrew, Cantonese, Urdu and Yiddish. In the aggregate, interpreters worked a total of 275 days of the year on trials.

Orientation and Recruitment

Our yearly orientation program has been suspended because the district has sufficient interpreter resources at this time, however, recruitment and coaching sessions of interpreter candidates in hard-to-find languages continue to be undertaken as needed. Interpreters in lesser-used languages require more training than interpreters for the European languages because of the differing skill levels of the available pool and the lack of traditional testing in those languages. Seven exotic language interpreters had individual orientation sessions this year.

A0 Spanish Certification Testing

In July, two staff interpreters participated as raters for the oral section of the Spanish certification examination. In the latest round of testing, five interpreters were newly certified in the New York area, but of these, most are state court employees and not generally available for the freelance pool. Available Spanish certified interpreters in our area number approximately 40.

Committees and Professional Associations

The Chief Interpreter was invited to join the Interpreter Service Model

Program for Law Enforcement Committee organized through the Summit County Sheriff's Office in Ohio. The Committee's mission is to develop interpreter protocol and routines for law enforcement settings. She is also currently serving as interim member of the Board of Directors of the National Association of Judiciary Interpreters and Translators.

Cooperation with State Courts

The Chief Interpreter presented a half-day training session for the Connecticut state court system on interpreter ethics.

Office Management

The online scheduling program designed by staff interpreter David Mintz is in its third year of usage and continues to function efficiently. All interpreter and translation usage provided to the Court and its units is recorded in a MySQL database via a web interface written in PHP.

Development of the next version of our interpreter management software is underway. This upgrade will include numerous improvements in code efficiency and maintainability as well as an expanded feature set based on user feedback.

Our office's website (<http://interpreters.nysd.circ2.dcn/> and its public mirror <http://sdnyinterpreters.org>) underwent an extensive redesign and expansion. Nancy Festinger and David Mintz jointly created, edited, organized and published online numerous documents containing information aimed at attorneys, judges, interpreters and the general public, and made them accessible through an attractive navigational interface.

The SDNY online glossary application, designed and built by David Mintz, has been added to by staff and student interns. The glossary was ranked second in a field of over 50 in its category on Lexicool.com, an online search utility for linguists. The rating criteria were presentation and usability.

BANKRUPTCY COURT

This court experienced an overall increase in filings of 8.7%; however, adversary proceedings increased 280%. Although the Court's Chapter 11 case filings declined by 37%, this court's weighted case filings per judge are 3,112 as compared to the national median of 1,493. Therefore, the judges in this district are carrying a caseload more than twice the national median. There are more than

6,600 attorneys registered to use the Court's Electronic Case File System (ECF) and during Fiscal Year 2003, 1,300 new attorneys were added and 1,659 orders to appear *pro hac vice* were signed. The Court continues to conduct training classes for new users of the system on an average of twice a week.

FILINGS DURING FISCAL YEAR 2003

<u>Chapter</u>	<u>Number of Filings</u>	<u>Percent Change</u>
7	14,262	13%
11	924	(37%)
12	1	- 0 -
13	2,061	12.8%
304	50	92%
Adversary Proceedings	6,770	280.5%

During Fiscal Year 2002, there were some very noteworthy cases filed here, namely Enron Corp., Global Crossing Ltd., Adelphia Business Solutions, Ogden New York Services, Inc., and WorldCom, Inc. Numerous affiliated cases continue to be filed.

The cases designated as the case in the "mega" cases commenced during this reporting period are as follows:

<u>Case Name</u>	<u>Case Number</u>	<u>Filed Date</u>
Genuity Inc.	02-43558-pcb	11/27/2002
Cenargo International Plc	03-10196-rdd	01/14/2003
Regus Business Centre Corp.	03-20026-ash	01/14/2003
Magellan Health Services, Inc.	03-40515-pcb	03/11/2003
Spiegel, Inc.	03-11540-cb	03/17/2003
Aerovias Nacionales de Colombia S.A.		
Avianca and Avianca, Inc.	03-11678-alg	03/21/2003
Air Canada	3-11971-pcb	04/01/2003
Recoton Corporation	03-12180-alg	04/08/2003
Acterna Corporation	03-12837-brl	05/06/2003
NRG Energy, Inc.	03-13024-pcb	05/14/2003
Allegiance Telecom, Inc.	03-13057-rdd	05/14/2003
The Penn Traffic Company	03-22945-ash	05/30/2003
WestPoint Stevens Inc.	03-13532-rdd	06/01/2003
Loral Space & Communications Ltd.	03-41710-rdd	07/15/2003
Impath Inc.	03-16113-pcb	09/28/2003

The Court is continuing its efforts to provide current, correct information utilizing all means available, including the Court's web site, printed pamphlets for *pro se* filers, using a Clerk's Office staff member to act as a court services coordinator to assist filers unfamiliar with court operations and insuring a "help desk" line is answered by an employee during core court hours of operation.

U.S. PROBATION OFFICE

The Probation Office provides services to the Court, the community and to offenders. The office is divided into three branches: presentence investigation, supervision and administrative services. During the period ending September 30, 2003, there were 173 staff members.

Presentence Investigations: Probation officers working in the presentence investigation division completed increasing numbers of presentence investigations. FY 03 saw another substantial increase in the number of presentence reports completed. The division continues to create innovative ways of fulfilling their obligation, while maintaining their high quality of work.

Supervision: The supervision division, which provides direct supervision to offenders, has developed efficient ways of completing their responsibilities. Increased presence in the field, during non-traditional field hours continue to be emphasized. Laptop computers have been issued to individual officers in both divisions that replaced their desktops, allowing officers increased portability and flexibility. Safety measures, including mandatory defensive tactics, handgun retention, and safety scenario training have become the policy of the office.

Administrative Services: The administrative services branch includes automation, data quality analysis, personnel, records, supplies and purchasing/budget. The members of this division are dedicated to engaging in quality behind-the-scenes work that supports operations staff.

PRETRIAL SERVICES

As the component of the federal judiciary responsible for the bail investigation of defendants, the Pretrial Service Office is committed to providing verified information and assessments of the risks of non appearance and danger to the community for every defendant appearing before the Court following arrest. While working under the guidance of the Court, pretrial services seeks to effectively supervise persons released to its custody and thereby promote public safety, facilitate the judicial process and seek alternatives to detention.

The Pretrial Services Office interviewed 98% of the defendants who appeared on criminal charges during FY 2003. The workload grew from 2,199 bail interviews the previous year to 2,309 this year. Of those defendants interviewed by Pretrial Services, 95% were interviewed prior to their initial appearance in court. Our district continues to have a low detention rate, especially when compared to other large metropolitan district courts.

At the end of the Fiscal Year, September 30, 2003, there were 1,019 defendants reporting to Pretrial Services for supervision as required by their court-ordered release conditions. Ninety-six percent of those released appeared in court as required and 98.5% of defendants were not arrested during their bail period. Officers reported 249 total violations resulting in a modification of bail conditions on 46 occasions and 65 defendants were detained following bail violation hearings. The majority of these violations were technical violations for noncompliance with release conditions such as continued drug use, failure to attend a treatment program or reporting violations.

This year we placed a strong emphasis on community supervision with officers increasing home visits in addition to the defendant reporting to our office. The goal was to verify residential information, explain our role and establish collateral contacts with the defendant's family as well as continuing to identify any risks of nonappearance or danger to the community. Officers responded by completing over 2,000 home visits and 98 employment visits in FY 2003.

While numbers do not tell the whole story these are the average activities happening every day in Pretrial Services-

daily telephone contacts with defendants	= 119	daily contacts with assistant US attorney	= 14
daily office visits with defendants	= 57	daily contacts with defense attorney	= 14
daily home visits to defendants	= 10	daily law enforcement contact	= 35
daily drug tests administered	= 21	daily criminal record inquiries	= 30
daily docket searches	= 54		

Pretrial Services is the front door to the federal criminal justice system and has a unique opportunity to lay the foundation for each defendant's success, not only during the period of pretrial services supervision, but even beyond that time. Officers strive to work with each defendant in such a manner that this contact with the criminal justice system will be their last and so prevent the front door of the system from becoming a revolving door.

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT**



Chief Judge William K. Sessions III

U.S. DISTRICT COURT CLERK' S OFFICE

Judicial Assistance

During calendar year 2003, both of Vermont' s district judges assisted other districts with caseload needs. In February 2003, Chief Judge William K. Sessions III, accompanied by his courtroom deputy, traveled and spent two weeks in Las Cruces, New Mexico, providing assistance with the district' s criminal caseload. In November 2003, District Judge J. Garvan Murtha sat by designation in the Eastern District of New York at Brooklyn assisting with that district' s civil caseload.

District Court Clerk' s Office

During 2003, the District Court Clerk' s Office continued to maintain its characteristically stable staffing level and the office experienced only one separation for the entire year. This vacancy was filled during early January and a replacement deputy clerk was hired for the Burlington in-take section. No other personnel changes to permanent staff occurred within the District for the remainder of the year other than the District' s part-time *pro se* law clerk position was

eliminated at the close of the calendar year. Prior to December 31, 2003, although Vermont was authorized 1.0 *pro se* law clerk positions, budget and policy considerations allowed the District to retain an additional half-time *pro se* law clerk position. Based upon the Judiciary's financial plan for FY 2003 and a change in Judicial Conference staffing policy which eliminated funding for excess *pro se* law clerk positions, the District's half-time position was eliminated effective December 31, 2003.

In anticipation of being designated as an electronic filing court, the district court's executive management team traveled to the District of Maine during May 2003 to discuss Case Management/Electronic Case Filing CM/ECF strategy. Similar to the District of Maine, Vermont's electronic filing strategy is to implement the "CM" portion of electronic filing first before moving on to full-electronic filing capability. In November 2003, Vermont was officially included as an electronic filing court in the national round-out and was listed as Implementation Wave No. 17. Vermont's target "go-live" date is tentatively set for September 2004. During December 2003, eight deputy clerks underwent CM/ECF Applications training at the San Antonio, Texas Training Center. Additional personnel will attend both Dictionary and Editor/Quality Control training during 2004.

During August 2003, the Clerk's Office converted without incident to the most current version of the Financial Accounting System For Tomorrow (**FAS₄T**), Version 3.7.3.2. The Clerk's Office continues to implement the Certifying Officer authority delegated to Court Unit Executives during the summer of 2002.

Automation and Information Technology Activities

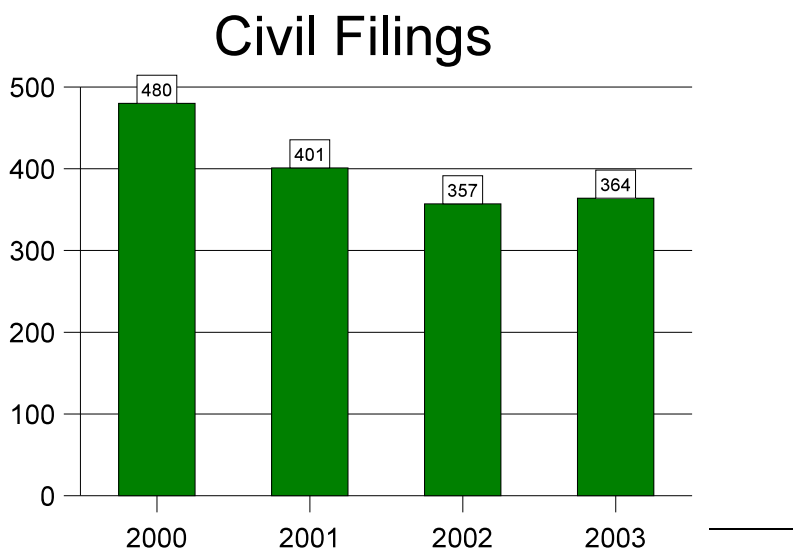
During calendar year 2003, the Clerk's Office continued to refine and expand automation and IT-related activities, with particular emphasis on enhancing the Court's external website. Jury instructions for each of the Court's duty locations have been added to the website along with instructions for using the Court's two Burlington-based evidence presentation systems. The Clerk's Office is also investigating the possibility of using the internet as a juror notification tool supplementing its toll-free phone notification system.

Two other significant accomplishments which took place during 2003 in the systems arena were the addition of a new web-based opinion review and retrieval system and the fielding of a completely new, web-based court scheduling calendar. The opinion review system makes available to the public and bar both published and non-published court opinions and also allows for electronic notification to a

user or party when an opinion first becomes available. Enhancements made to the Court's internal website included affording employees the ability to listen to courtroom proceedings via their desktop computer and the ability to view Federal Judicial Television Network (FJTN) programs at individual workstations. These last two enhancements were particularly well-received by Court and Clerk's Office staff. Other applications enhancements included upgrading all user workstations with the Windows "XP" platform, upgrading all file servers with Novell Release No. 6, and as mentioned earlier, installing the latest new release for the FAS₄T financial application.

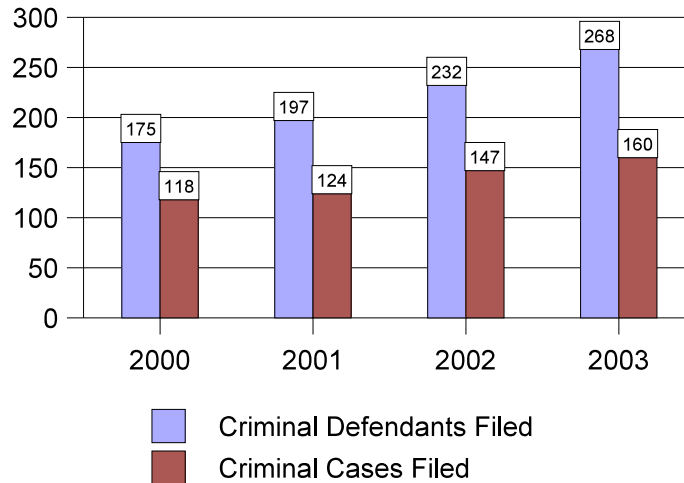
Caseload Statistics

As shown below, Vermont's civil case filings for calendar year 2003 remained essentially constant when compared to calendar year 2002. The District experienced only a very slight increase in civil filings - seven cases - in the total number of civil cases commenced. Based upon historical data, we believe that this upward trend will continue as the District's long-term average caseload filing on a per annum basis centers on roughly 400 civil filings per year.



Unlike its civil counterpart, however, Vermont's criminal caseload continues to expand. Calendar year 2003 saw an increase of thirteen cases and thirty-six defendants, representing increases of sixteen and ten percent, respectively, over calendar year 2002. The increased caseload activity is attributed to a staffing increase placed in effect by the Office of the United States Attorney during late 2002 when two additional AUSA positions were filled.

Criminal Filings



Criminal Justice Act (CJA) Panel Operations

The total number of Criminal Justice Act appointments made by the District during 2003 decreased approximately five percent, from a high of 291 appointments made in 2002 to 277 appointments made for 2003. The discrepancy of having more criminal cases and defendants filed during 2003 while still experiencing a decline in the number of actual CJA Panel appointments made is attributable to the fact that the District simply had more fugitive defendant filings.

During 2002, the District applied to establish a separate, independent Office of the Public Defender within its jurisdiction as it continues to meet the qualifying criteria set forth by 28 U.S.C. § 3006A(g) - making more than 200 individual CJA appointments on a per year basis. On June 5, 2003, the Second Circuit Judicial Counsel approved Vermont's application to establish a separate office, contingent upon the Defender Services Division securing adequate funding through Congress. Vermont remains hopeful that funding will be approved during 2004 and that a separate Federal Public Defender Office will be established.

Early Neutral Evaluation (ENE) Program

The Court continues to rely upon its Early Neutral Evaluation Program to reduce the cost of litigation and its delay to the parties. Although the number of ENE sessions held during 2003 increased more than fourfold – from 17 to 74

sessions held – the rate of full case settlement remained constant at thirty-three percent. Currently, the Court's ENE Panel consists of forty-eight attorneys who are trained in various alternative dispute resolution techniques. The program will enter its tenth year of operation in 2004.

Space and Facilities

During May 2003, representatives from the Administrative Office's Space and Facilities Division assisted the District's Long-Range Space Planning Committee with updating Vermont's Long-Range Space Plan. Due to the untimely death of Circuit Judge Fred I. Parker during August 2003, the District is currently in the process of modifying its Plan to account for this unplanned event. Vermont is currently included on the national courthouse construction schedule for initial site acquisition and building design for Fiscal Year 2007.

No major court-driven tenant alteration projects took place within the District during calendar year 2003. Work on the GSA prospectus-level HVAC replacement project for the Burlington Federal Building continued ahead of schedule during the year. While the anticipated completion date is sometime during the fall of 2004, the formal contract completion date is set for March 2005. The Burlington elevator replacement project was completed during the summer of 2003. The building's existing Otis elevators installed when the building was built in 1960 were completely replaced with more modern Thyssen elevators.

Attorney Discipline

During 2003, Vermont had six attorney discipline proceedings: three suspensions, two censures with public reprimands and one disbarment. All of the District's proceedings originated at the state level and involved the Vermont state professional conduct board and as such, were reciprocal in nature. Similar to 2002, no disciplinary actions originated from the Court's federal bar during the year.

PROBATION & PRETRIAL SERVICES

District of Vermont

The Vermont Probation Office is a combined court unit fulfilling both the Probation and Pretrial Services functions, with three units providing service to the Court; Pretrial Services, Presentence Investigations and Post-Conviction Supervision. We began the fiscal year with 21.6 employees. We were authorized 22.9 units, an increase of 1.8 units from the previous year. This increase in authorized work units brought us back to where we had been in FY 2001. The increase in workload was, in part, a result of last years' significant increase in Pretrial Services' workload and an increase in Post-Conviction Supervision cases. Unfortunately the Judiciary' s budget was not finalized until early in the calendar year of 2003. Funding for new work units was provided for only one-half of the year. Consequently, we were unable to add to our staff and we finished the year with 21.6 employees.

The Burlington Office includes the administrative staff, Canadian Liaison, Pretrial Services Unit, Presentence Unit and Post-Conviction Supervision Unit as well as support staff. The Burlington location also houses the drug testing laboratory. The Brattleboro, Vermont Office is staffed by two probation officers and one probation clerk. There is also an un-staffed office in Rutland, used by officers to meet with offenders and to attend Court hearings in Rutland. We have maximized the use of space in all facilities and have no room for expansion in Burlington and Brattleboro. A recent Administrative Office Long-Range Planning Report highlighted the space shortages in each of the three offices. At present, there is no room for additional staff in Burlington, Rutland or Brattleboro.

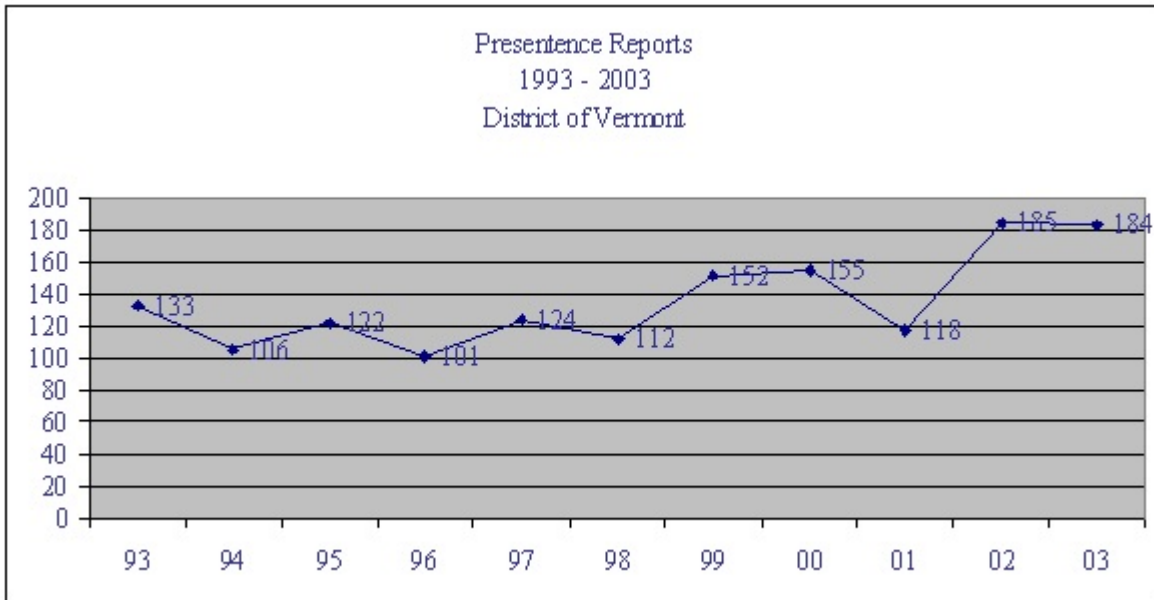
The Probation Office has a Training Committee, which includes a training coordinator and other professional, support and administrative staff. This Committee arranges and provides training to the general staff. The Probation & Pretrial Services Office also has a Tuition Assistance Program which affords training opportunities for staff on a selective individual basis from outside sources. Internal resources include a video library, packaged training programs offered by the Federal Judicial Center, local consultants and other resource materials as well as training through the FJTN. Staff participated in numerous training programs this year including New Officer Orientation, Officer Safety, Firearms, CapStun, Dealing with Mental Health Disorders, Myers Briggs, General First Aid and CPR certification.

We had one officer complete the Leadership Development Program and one officer acting as a trainer for New Officer Orientation. We have continued our association with small districts from New England in a regional Critical Incident Stress Management Team. The Administrative Manager assisted the Office of

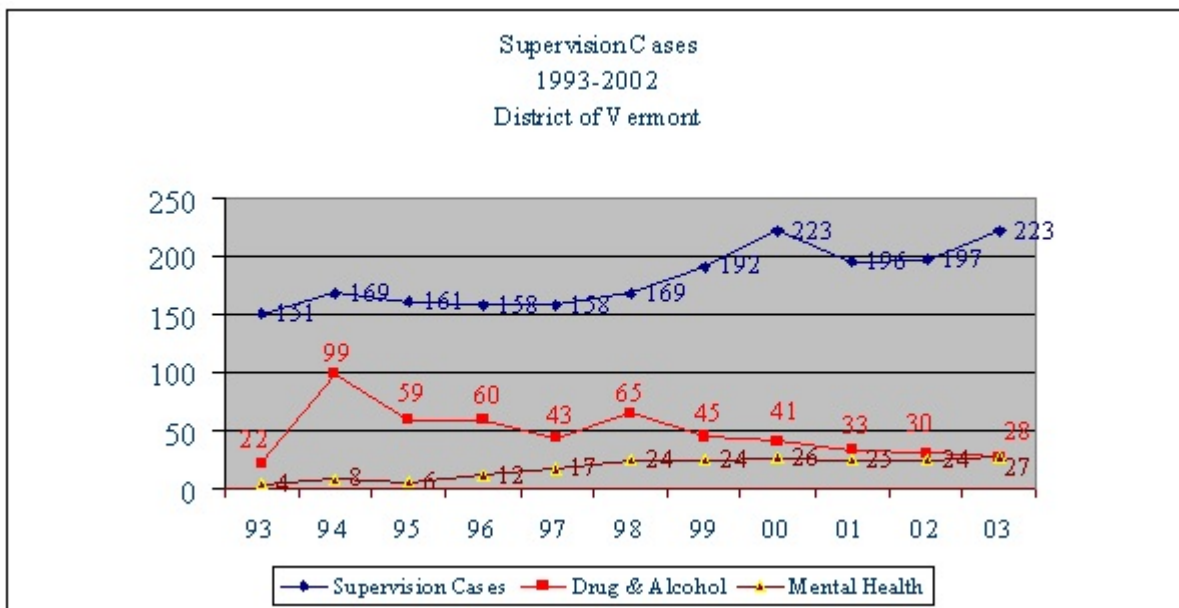
Chief Judges' Reports

Probation & Pretrial Services with district reviews as a subject matter expert on budget and human resources. In addition, she served as a mentor in the implementation of FAS4T.

The District of Vermont's Presentence Investigation workload remained stable. After last year's record high of presentence investigation reports, we completed one less this year.



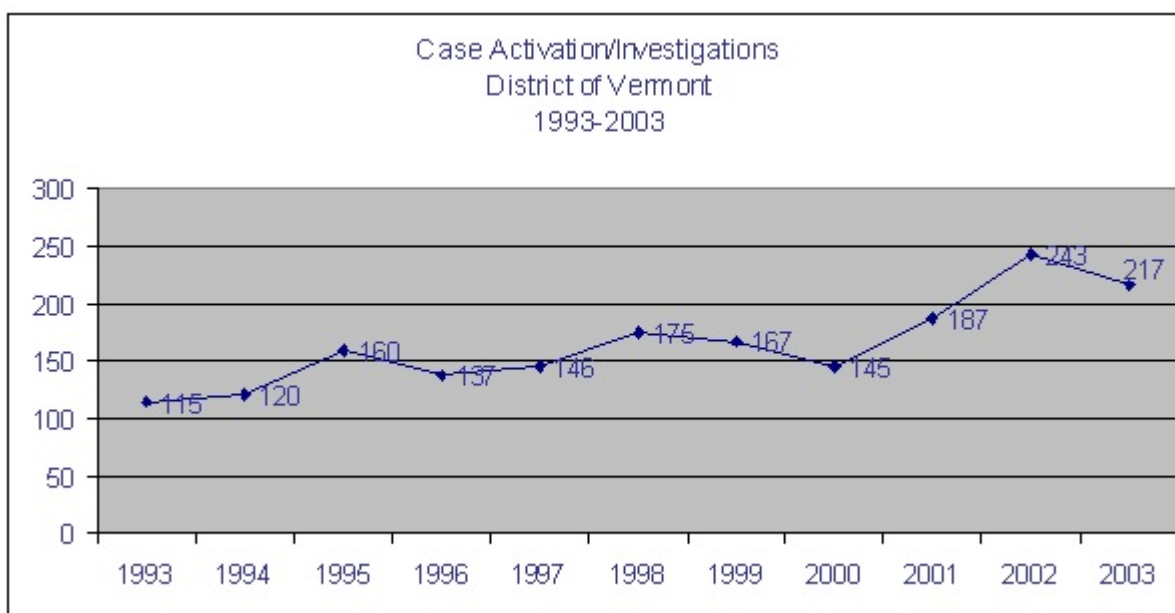
Our Post-Conviction Supervision cases increased by 13% over last year. The number of defendant's receiving drug and alcohol treatment, similar to the previous years. During the year a total of 90 offenders under post-conviction supervision received substance abuse treatment. We had a 14% increase in collateral investigations completed and a significant 39% decrease in violations.



During FY 2003, we continued to have substance abuse and mental health contracts in all fourteen counties of Vermont. The contracts are monitored by the District's DATS officer with the assistance of one of the probation officers assigned to the pretrial services function. We had a 17% decrease in drug treatment expenditures and an 83.3% increase in mental health expenditures. We had 25.4% offender co-payments for drug treatment and 27.3% for mental health.

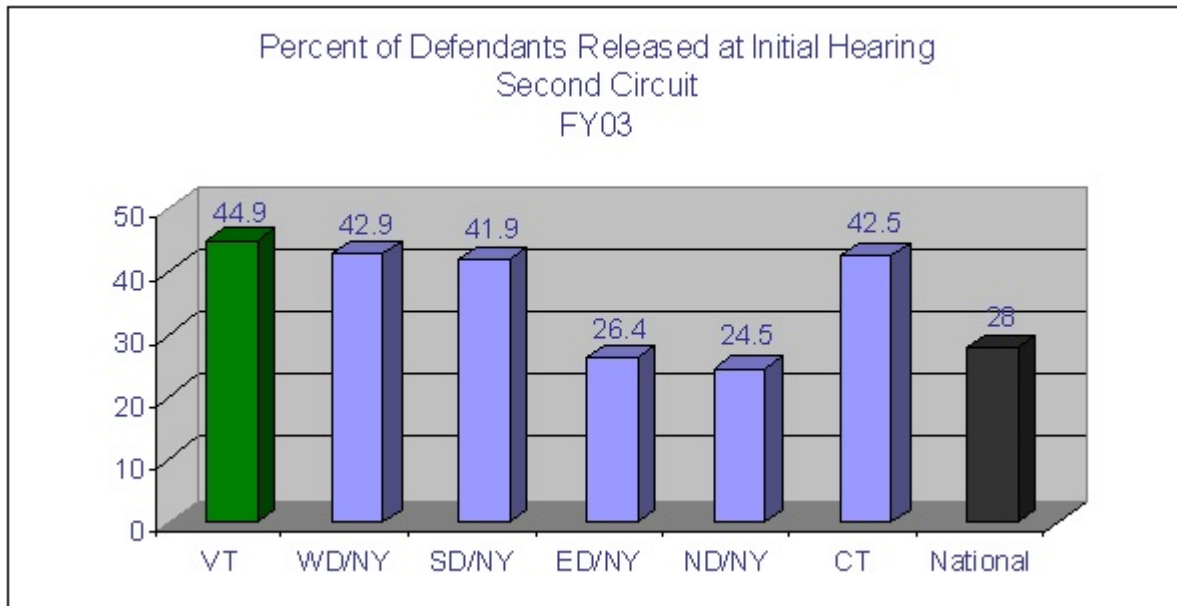
During the fiscal year, we continued to use electronic monitoring as a sanction and in lieu of halfway house placements. Sixty post-conviction offenders were under electronic monitoring services during the fiscal year and 23 offenders in Bureau of Prison custody were monitored with the electronic monitoring systems as part of their reintegration to the community because Vermont has no halfway house facilities.

During FY 2003, we experienced a 10.6% decrease in Pretrial Services cases activated, with a total of 217 cases for the year.



At the end of FY 2003, we had 94 defendants under supervision, the same number as last year. We had an 11.0% decrease in offenders released with substance abuse treatment conditions. We expended 19.5% less for drug and alcohol treatment and 70% more for mental health treatment than the previous year. We collected 13.5% of our total pretrial alternative detention funds in offender co-payments. Within the Second Circuit, Vermont had the highest release at initial

hearing, 44.9% and the lowest rate, 26.9% of defendant' s detained and never released.



The majority of offenses charged in the District of Vermont were drug related offenses, totaling 53.2%, down from 61% last year, 7.9% of offenses were fraud while 13.4% were weapon/firearm related. Our post-conviction supervision caseload results from 50.2% of drug law violators and 14.5% firearms violators.

We continue to provide liaison services between the Federal Probation System and Canadian Law Enforcement. During the fiscal year, we provided 106 investigative reports to other districts relating to Canadian offenders.

**U.S. Bankruptcy Court
District of Vermont**

CM/ECF

We successfully converted to CM/ECF Version 2 in early 2003. We also completed construction of an 8-station training room in Rutland and began holding monthly classes for attorneys and their staff. We had trained a total of 185 attorneys as of the end of 2003, about 34% of whom were trained on-site in attorneys' offices. Attorneys filed documents online on behalf of their clients 4,445 times in 2003, and trustees filed online 1,578 times. Together, this accounts for approximately 49% of all filings, up from 31% in 2002. Attorneys opened 966 bankruptcy cases and 14 adversary proceedings electronically, which constituted approximately 51% and 22% of those categories, respectively. This reflects a significant increase from 2002. By December 31, 2003, over 64% of all attorney transactions were being completed online.

Community Outreach

Several members of the Clerk's Office staff have formed a Community Outreach Task Force for the purpose of creating and presenting a community outreach program that is very similar to the CARE program which is being initiated throughout the circuit. The task force has been very active in several different projects, all of which focus primarily on disseminating information to *pro se* parties and educating young people about the risks associated with imprudent use of credit.

In late 2003, the task force completed a revised *pro se* packet which we have made available to persons who choose to seek bankruptcy relief without benefit of counsel, communicated the existence of this information to the Vermont agencies that provide legal services to the indigent, obtained information from these agencies about how best to coordinate the task force's efforts with the services the agencies provide, made the bar aware of this new *pro se* information packet, and posted the *pro se* packet of information on the Court's web page.

During spring 2003, the task force created and finalized a one-hour interactive educational mini-course entitled **Start Smart**. During the summer of 2003, the task force disseminated information about this program to many colleges in Vermont, offering to give this presentation on site for no fee. On September 27, 2003, members of the task force made their initial presentation of **Start Smart** at the College of St. Joseph (in Rutland, VT). The response from students who have

participated in the program has been very positive, and the task force is currently planning to offer this course several more times in 2004, to both college and high school students.

In a similar vein, the Court created a *pro se* litigant information sheet and instituted a procedure whereby the Clerk's Office sends out a form to both parties explaining the notice, service, filing and local rule requirements whenever one of the parties to a summary judgment motion is *pro se*.

Judge Brown implemented a Judicial Performance Appraisal system in 2003, in which attorneys are encouraged to offer candid comments to a third party (an attorney who does not practice in this court), who then passes the comments along to Judge Brown. As of December 2003, this attorney had heard from and/or contacted 15 attorneys who have practiced in this court. (This is a significant number, and an excellent level of response, since our bar is so small: about 45 attorneys filed approximately 80% of all papers filed by attorneys in 2003.) We are pleased to report that the comments were overwhelmingly positive. Certain questions were raised as to court operations, to which we responded via an article in the Vermont Bar Association journal.

Mega-Case and Jury Trial

This court received its first “mega-case” in 2003, involving over 19,000 creditors. This is an exceptionally large case for the District of Vermont, and the staff managed to process 2,720 claims without any outside assistance.

In June 2003, Judge Brown also held the first jury trial in Vermont's bankruptcy court since she took the bench. It lasted five days before the parties settled the lender liability and other claims in issue.

Also in 2003...

- Judge Brown was appointed to serve as the Second Circuit Representative to the Administrative Office's Bankruptcy Judges' Advisory Group.
- We implemented new rules regarding privacy.
- The Court successfully converted to a new time and attendance system (ELMR).
- We, in collaboration with the U.S. District Court, constructed a courtroom and chambers space for the Bankruptcy Court in the courthouse in Burlington.

- The Clerks Office staff created and populated new databases in Lotus Notes, including:
 - a policy database containing this court' s Employee Handbook;
 - a VTB Documents Library containing meeting agendas and minutes, financial procedures, the Internal Control Manual, and job descriptions for each employee; and
 - a CM/ECF Procedures database.
- The Court sponsored *Take Your Kids to Work Day* during which attorneys and staff were encouraged to bring their children to the Court to learn about what their parents do all day.
- Judge Brown traveled to Petrozovodsk, Karelia, in the former Soviet Union, for 10 days in May 2003 to speak to about 200 Karelian judges of the Arbitrage [commercial] Court about their new bankruptcy system and how it compared to the American Bankruptcy law, and participate in the Russian American Rule of Law Consortium (RAROLC) on the American adversarial system.

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK**



Chief Judge Richard J. Arcara

**SUMMARY OF HIGHLIGHTS AND ACTIVITIES IN THE
WESTERN DISTRICT OF NEW YORK**

Statistical Year 2003 was yet another year during which case filings, both civil and criminal, increased in the Western District. The District Court, while at a full complement of district judges and magistrate judges, nevertheless struggled significantly to keep pace with the workload demands placed upon this extraordinarily busy court.

As has been the case for more than a decade, the District's workload continues to be substantial. The District ranks second in the Circuit and 22nd nationally with regard to civil filings, and first in the Circuit and 21st nationally with regard to criminal filings. With respect to pending cases per judgeship, the District ranks first in the Circuit and 6th nationally, with 727 cases per judgeship. Overall, civil filings in the District were up 5.5% over the preceding reporting period, while criminal filings were up 13% for the same period. The total civil and criminal filings place the District 10th nationally in this category.

Despite the heavy workload, the District continues to make great strides in disposing of cases. The District ranks first in the Circuit and 10th in the nation

with regard to terminations per judgeship. This result is even better than last year when the District was 18th nationally in this category. In view of the District's increasing caseload, however, it will be difficult for the District to keep up this pace without the creation of any new judgeships.

No new judicial officer positions were created in the Western District during this reporting period. Although the Court has been working diligently towards reducing the significant caseload, more help is needed. The Judicial Conference of the United States has recognized this and has recommended, since 1992, that an additional judgeship be created for the Western District of New York. It is only recently that Congress has begun to create additional judgeships but, unfortunately, the Western District has not been included in the new authorizations. Weighted filings per judgeship, a statistical factor of great significance when justifying the need for new judgeships, places this Court second in the Circuit and 19th nationally. This district is well above the national average of 611 weighted filings per judgeship versus 523 nationally.

Plans proceed apace with two major construction projects in the District. The first project, originally designed as an annex to the Michael J. Dillon Courthouse in Buffalo, was subsequently determined to be impractical in light of the September 11th terrorist attacks and increased security regulations for new construction.

The General Services Administration, the Administrative Office of the U.S. Courts, and the District Court concluded that the project should be scrapped in favor of a separate, stand-alone Courthouse. The project's ranking in the Judiciary's five-year plan for courthouse construction projects for Fiscal Year 2003 resulted in a Congressional appropriation for site acquisition and design. These funds became available shortly after October 1, 2002. The General Services Administration is in the process of negotiating for the purchase of the parcels of land on which the new courthouse will be constructed. The site selected for the new courthouse is on Niagara Square, the main civic center of downtown Buffalo. The new building will provide courtrooms and chambers for all of the district and magistrate judges in the Buffalo Division, a new grand jury facility, work spaces for the United States Attorney's Office and the Federal Public Defender, and offices for the United States Marshals Service, the District Court Clerk and U.S. Probation and Pretrial Services. The existing federal courthouse, which is a historical building, will be preserved in the new housing plan and will become the home of the U.S. Bankruptcy Court and other federal agencies. The Dillon Courthouse will continue to provide for the government's needs well into the future.



Artist renderings of concept design of the new Buffalo Courthouse

The Rochester project possesses a lesser ranking in the Judiciary's five-year courthouse construction program. Funding for an annex to the Kenneth B. Keating Federal Building and U.S. Courthouse is not expected until Fiscal Year 2007 at the earliest. It is anticipated that the annex will house four district courtrooms and chambers plus related support office space for the Court and the U.S. Marshals Service. The annex will be connected to the existing facility by way of an atrium.

During Fiscal Year 2003, a number of judicial officers continued their service on national committees, advisory groups and organizations. U.S. Magistrate Judge Hugh B. Scott continues to serve on the District Court Advisory Council to the Administrative Office. Senior District Judge Michael A. Telesca continues his term on the Anti-Terrorist and Removal Court. U.S. Bankruptcy Judge Michael J. Kaplan continued to serve as a member of the Second Circuit's Library Committee. Bankruptcy Judge Carl L. Bucki was selected to serve as a member of the Board of Governors of the National Conference of Bankruptcy Judges. Chief Bankruptcy Judge John C. Ninfo, II was appointed to the Second Circuit Judicial Council on Bankruptcy. Chief Judge Ninfo continued to expand the Credit Abuse Resistance Education (CARE) program within the District and, as a result of a November 13, 2003 letter from Second Circuit Chief Judge John M. Walker, Jr. to Chief District Judges, the CARE program expanded throughout the Second Circuit and to some extent nationally as the result of a number of initiatives within the Federal Judiciary.

The District Court, selected as one of ten courts nationwide for early implementation of the new financial accounting system known as FAS₄T, continued

to serve as a mentor court at the request of the Administrative Office. Most notably, during this reporting period, the District Court acted as a mentor and advisor to the Southern District of New York, the Northern District of Georgia, and the Eastern District of North Carolina.

During the period October 1, 2002 through September 30, 2003, the District implemented the CM/ECF case management system as part of Wave 11, going live on the case management module on October 4, 2003. The final conversion was accomplished over the weekend of October 1, 2003 through October 3, 2003, with over a million and a half records converted without error. Over 500 attorneys have been trained on and registered for the system to date, and attorneys began e-filing on January 4, 2004.

PERSONNEL

Judicial Officers

Active District Court Judges include Richard J. Arcara (Chief Judge) and William M. Skretny in Buffalo and David G. Larimer and Charles J. Siragusa in Rochester. Senior Judges include John T. Curtin and John T. Elfvin in Buffalo and Michael A. Telesca in Rochester. Judge Telesca celebrated his 20th anniversary on the bench in May 2003. Magistrate Judges include Leslie G. Foschio, Hugh B. Scott, and H. Kenneth Schroeder, Jr. in Buffalo and Jonathan W. Feldman and Marian W. Payson in Rochester. Bankruptcy Court Judges include John C. Ninfo, II (Chief Judge) in Rochester and Michael J. Kaplan and Carl L. Bucki in Buffalo. Fiscal Year 2003 marked the tenth anniversary on the bench for Judge Bucki.

Administrative Officers

Court Unit Executives are Rodney C. Early, Clerk of Court, United States District Court, Paul Warren, Clerk of Court, United States Bankruptcy Court, and Joseph A. Giacobbe, Chief Probation and Pretrial Services Officer. The United States Marshal is Peter Lawrence. The District Court's Chief Deputy Clerk is Jeanne M. Spampata. The Rochester Division Clerk's Office is administered by Deputy Clerk-In-Charge, Rachel Bandyh (Ms. Bandyh resigned effective December 28, 2003). The Bankruptcy Court's Chief Deputy Clerk is Michelle Pierce. The Buffalo Division of the Bankruptcy Court is administered by Deputy-In-Charge JoAnn Walker, the Rochester Division Office is administered by Deputy-In-Charge Todd Stickle. Deputy Chief Probation Officer Anthony San Giacomo oversees the operation of the Buffalo Office, while Deputy Chief

Probation Officer Thomas McGlynn supervises the Rochester Division Probation Office (Mr. McGlynn retired at the end of December, 2003.)

Magistrate Judges

All magistrate judges in the Western District of New York continue to be utilized to the fullest extent possible under existing law. Consent cases before magistrate judges are encouraged and each magistrate judge has a substantial number of consent cases pending. Virtually all discovery matters, including Rule 16 Conferences, are referred to magistrate judges. In many cases, magistrate judges also supervise much of the pre-trial criminal work, including motions. Magistrate judges are also used extensively in settlement conferences.

Because there are 14 state correctional facilities and numerous local correctional facilities in the District, the Court has a significant number of prisoner filings. The Court has successfully experimented with a system for direct assignment of prisoner petitions in habeas corpus cases to magistrate judges in equal proportion to those assigned to district judges. There is a very high rate of consents in these cases which allows for more efficient use of the magistrate judges.

Magistrate judges are an integral and indispensable part of the Court. They also participate with the district judges in all aspects of court management in the District.

STATISTICS

District Court

Civil filings for the year ending September 30, 2003 were 1,697, which is a 5.5% increase over the prior year's civil filings. Buffalo's filings were up 3% and Rochester's filings were up 9.5%. Total criminal case filings for the year ending September 30, 2003 were 439, a 13% increase over the prior year. Filings were up 2.3% in Buffalo, and 34.6% in Rochester.

The civil pending caseload is up a combined 6.4% over last year. Buffalo is up 7.9%, and Rochester is up 4.5%. Rochester's share of the pending civil caseload stands at 42%, down one percentage point from last year's share.

The criminal pending caseload is up 9.2% overall, and now stands at 570 cases.

One thousand five hundred and forty two civil cases were terminated during the period October 1, 2002 - September 30, 2003. That number is one more than was terminated during the prior twelve-month period. Buffalo closed 904 cases, while Rochester closed 638 cases.

Bankruptcy Court

Bankruptcy filings in the Western District of New York for the preceding twelve-month period increased, as has been the national trend. A total of 14,579 cases were filed during Fiscal Year 2003, which represents a district-wide increase of 12.95% from the previous twelve-month period. The percentage increase in bankruptcy filings in the District was significantly greater than the national average of 7.4%. Chapter 7 cases continue to comprise the majority of the cases in this district, representing approximately 74% of the total cases filed. A total of 527 Adversary Proceedings were filed during Fiscal Year 2003, representing a slight decrease from last year.

According to the most recent Bankruptcy Program Indicators, the Court continues to rank nationally in the median range with respect to the number of case filings, disposition time and average age of pending cases. The Court's active case management of Adversary Proceedings has resulted in it being ranked first in the Circuit with respect to the average age of pending dischargeability Adversary Proceedings and second in the Circuit for the average age of other Adversary Proceedings. The Court continued to rank highly in the Circuit in these categories despite the increased workload and the inability to fill new authorized work units.

Probation and Pretrial Services

Joseph A. Giacobbe, Chief Probation Officer, reports that during statistical year 2003, the U.S. Probation and Pretrial Services office updated its strategic plan and the staff continued their commitment towards Total Quality Service. The plan identifies major performance outcome areas involving improvement of quality and service in pretrial service reports, supervision services, presentence reports, automation services, training, diversity of the organization and management. Staff members, representing all job types, are assigned to work on goals supporting these outcome areas.

During this reporting period, a number of individuals participated in regional and national initiatives outside of the district. Two probation officers participated as trainers for the Federal Judicial Center's new officer training program. One member of the management team assisted the Office of Probation

and Pretrial Services on the Committee for the Development of the AO' s updated post sentence and pretrial services supervision monographs. One of the senior probation officers was selected as the Second Circuit' s representative on the U.S. Sentencing Commission' s Advisory Board.

In statistical year 2003, 698 cases were activated on pretrial release, representing a bail release rate of 65.7%. The percentage of pretrial defendants who successfully completed supervision was 80%. The majority of violations while on pretrial release were technical violations as opposed to re-arrests. The total number of pretrial service defendants received for supervision during this reporting period was 365, which includes pretrial diversion defendants. Of this number, 160 defendants were referred for substance abuse testing and/or treatment. A total of 52 pretrial services defendants were referred for mental health treatment.

A total of 198 defendants were released on electronic monitoring surveillance at the pretrial services stage. Defendants paid approximately \$16,000 toward co-payment orders. The successful EMS completion rate continued in the mid-80% range. Use of pretrial EMS resulted in a potential savings to the government of \$1,921,177.

The presentence investigation unit completed 495 investigations. District-wide, 71% of sentenced defendants were remanded, 22% were placed on probation, 15% were ordered to pay a fine and 15% were directed to make restitution.

During the reporting period, 1,277 post-sentence offenders were under supervision. Of this number, 1,211 offenders, or 95%, completed their term of supervision successfully. A total of 160 offenders received drug treatment, while 71 offenders received mental health treatment. Two Hundred Forty offenders were placed under electronic monitoring conditions which produced a successful completion rate of 99%. Offenders paid \$11,885 towards co-payment orders. The average monthly number of individuals on post-sentence electronic monitoring was 55. Had these individuals been incarcerated, the cost to the government would have been approximately \$1,606,000. A total of 2,098 hours of community service were completed by 58 offenders. Restitution and fine collections totaled \$1,146,255. A total of 47 individuals were processed through the probation office' s employment program, resulting in 61% of the offenders either securing work, completing a training program, or becoming involved in an educational program.

AUTOMATION

District Court

During this reporting period, a significant amount of time was spent by the systems staff preparing for implementation of the new case management/electronic case filing (CM/ECF) system. New servers were successfully installed and configured for use in the CM/ECF project. The entire ICMS database was successfully migrated to the new system.

In addition to the technical work performed, the systems staff provided extensive training, both internally and externally, in support of the CM/ECF project. This included more than ten on-site training classes for members of the Bar as well as many in-house technical training seminars for court staff.

The new digital telephone system in Buffalo and Rochester continues to provide the Court with many new opportunities. The Bankruptcy Court's Rochester Office was successfully migrated to the new telephone system during this reporting period. The process of migrating the District Court Clerk's Office and Chambers in Rochester to the new system is nearing completion. This migration to the digital telephone switch promises to save the District Court and Bankruptcy Court significant budget resources. Shortly, the remaining chambers in Buffalo will be migrated to the new digital system as well.

In an effort to obtain more competitive telephone service rates, the District Clerk's Office has provided the Probation and Pretrial Services Unit with consulting expertise to assist them in their move to a less expensive service.

The systems staff continued throughout the year to process all necessary work station and server cyclical replacements and began to truly utilize the SAN for storage of digital audio recording data.

A new FAS₄T server has been installed and the FAS₄T application migrated to it. At the conclusion of this reporting period, the systems staff was preparing to upgrade to the new version of FAS₄T, version 3.7.

On the whole, the systems staff participated greatly in the training opportunities throughout the year. Deborah Trowse completed a computer forensics class while Brian Loliger actively participated in the CM/ECF on-site training program. Systems Manager Patrick Healy continues to provide on-site training to the Bar and others with respect to the new case management/electronic case file system.

This Fiscal Year saw the completion of the infrastructure and technical installation of expanded courtroom technology in two district courtrooms, one in Rochester and one in Buffalo.

Bankruptcy Court

On June 13, 2003, the Bankruptcy Court switched its case management system from BANCAP to CM/ECF, ending the use of the case management system that the Court had used for nearly 15 years. Conversion to CM/ECF required a significant commitment of IT personnel and budget resources to adequately train, test and convert existing case records and to support the Court in using the new case management system. The IT staff converted approximately 165,000 case records from BANCAP to CM/ECF, making that case information available to internal and external users without the need to keep two case management systems operating. For the period from June 30, 2003 through January 30, 2004, attorneys “e-filed” a total of 811 cases with the Court representing 8.90% of the Court’s total case filings for that period. During that same period of time, through the use of a scanning system developed by the Court’s IT staff, the Court was able to electronically image 166,592 documents, consisting of over 659,000 pages. Consequently, the Court was able to remain timely in its docketing, while at the same time making all documents filed with the Court since June 13, 2003 available electronically through CM/ECF. The IT staff has developed a “CM/ECF off-line program” for use by judges that hold court in remote locations without high-speed internet access, enabling a judge to take a notebook or CD to that location and have available all of the documents for the matters being heard that day without the need to rely on dial-up connections. The program has been very well received by other Bankruptcy Courts around the country.

Chief Deputy Clerk Michelle Pierce, served as CM/ECF Project Manager, while performing all other duties, in an admirable fashion. The Court registered 90 attorneys as e-filers, and has trained over 130 attorneys, together with the support staff for many of those attorneys. The Court is certified by the New York State Bar as a continuing legal education provider, offering a four credit-hour course to attorneys in the Court’s training facilities.

FINANCIAL OPERATIONS

District Court

Statistics for the Financial Department show a slight increase across the board in various measures of workload. Fees forwarded to the United States Treasury, including payments to the Crime Victims Fund, totaled over \$2.9 million

representing a 5% increase over the prior year, with the actual number of receipts issued (10,492) increasing by 2%. This growth appears to be the result of increased payments received from the Bureau of Prisons each month, which rose by 7%. Additionally, our registry deposits grew by 88% with \$3.5 million being collateralized through the Federal Reserve.

The volume of criminal debt activity overseen by the Financial Department significantly increased this year particularly due to joint and several restitution cases. Our current caseload involves the monitoring, tracking and collections on debt totaling over \$27 million for these types of cases alone which represents a 40% increase over what was ordered last year. Early in the year, our Financial Operations Supervisor initiated an inter-agency meeting with the District's U.S. Attorney's Office and the United States Probation Office to resolve outstanding issues with joint and several restitution cases. Countless hours were spent by the Financial staff identifying issues, communicating with the various agency leaders, attending a multitude of meetings, questioning and understanding the legal ramifications of various situations, and ultimately adjusting our records accordingly. This resulted in our ability to reduce the District's Deposit Fund by 23% by year end.

During the year, the Court's Financial staff processed over 6,600 payment vouchers and issued 13,078 checks. Combined Registry and Treasury disbursements totaled almost \$6.4 million. These statistics remained relatively stable from last fiscal year; however, one significant change in this area of financial operations involved the implementation of Certifying Officers legislation in October, 2002. Although the Clerk of Court remains the sole disbursing officer for the Western District of New York, the Financial Department continues to print the checks for all court units within the district but is no longer required to review vouchers for the other court units. Payments are now initiated electronically upon certification by the Unit Executives and/or their designees.

The Court's Criminal Justice Act program maintained its commitment to the timely processing of CJA payment vouchers. A total of 387 vouchers were certified for payment during the year, with over \$1.3 million being paid to attorneys, experts and related service providers on behalf of indigent defendants. This activity represented increases of 9% and 84% respectively primarily due to the assignment of multiple panel attorneys in two very significant cases. Numerous hours were spent reviewing, researching, and communicating with experts in the area of high profile criminal matters similar to *USA vs. Goba, et al.*, after which the presiding Judge approved our proposed Order which included a rather significant departure from the **Guide to Judiciary Policies and Procedures**. The Administrative Office was very pleased with the Court's decision and brought it

to the attention of the Defender Services Committee which met shortly thereafter. Coincidentally, one of their primary agenda items included the management of large non-death penalty cases whereby possible guidelines were being decided upon. As a result, they commended the Hon. William M. Skretny for his efforts in this area. Furthermore, the provision of recommendations on CJA-related death penalty guidelines and a subsequent proposed Order in the matter of USA vs. Diaz, et al, were also completed.

Other accomplishments in the area of CJA, upon the Chief Judge's direction, involved the drafting of new local policies and procedures for CJA Panel Attorneys regarding appointments, prior expenditure approvals, submissions deadlines, and other details, which are now provided at the time of assignment. New attorneys to the Panel are also provided with written material, as well as an overview of the CJA appointment system and resources. And finally, our public web page now includes various CJA documentation, voucher forms and instructions.

Early February also brought many FAS₄T related activities (Financial Accounting System for Tomorrow). Our Financial Operations Supervisor assisted the Administrative Office with training their team leads on Certifying Officer implementation simultaneously with FAS₄T, which resulted in a request by the Chief Accounting Officer for the Accounting and Financial Systems Division (AFSD) to write an article on Certifying Officer Preparations that was subsequently published in the nationwide FAS₄T flyer. Assistance was also provided in the presentation of Project Management Training to new FAS₄T implementation courts. This was followed by a member of the Financial Department mentoring the Eastern District of North Carolina as they converted their financial operations to FAS₄T. Additionally, we were asked to participate with the Administrative Office in an Operational Assessment and Audit of Texas Southern's budget, financial, and systems operations.

And lastly, we completed the reconciliation of our district's Deposit, Registry and Unclaimed Funds accounts with the Administrative Office's Central Accounting System (CAS) data. This task took two months to complete resulting in our initiating appropriate corrections to errors dating back to the 1960's. This was the first step required in the preparation for Civil/Criminal Accounting Module (CCAM) which is beginning to be rolled out to the courts in Fiscal Year 2004.

Bankruptcy Court

The Bankruptcy Court and the District Court identified the need to replace outdated telephone equipment being used by both courts in the Rochester

Courthouse during Fiscal Year 2003. The Bankruptcy Court fully funded the cost of purchasing a telephone system for the courts to share, at a total cost of approximately \$80,000. The cost for each court to purchase its own telephone system would have been approximately \$75,000. Consequently, the Court saved approximately \$65,000 by partnering to purchase a single telephone system. District Court provided technical support to the Bankruptcy Court in operating and maintaining this system, further reducing the operating cost of the new equipment. In addition, the Bankruptcy Court reprogrammed funds into the District Court budget to assist District Court in performing building improvements and upgrades.

The Bankruptcy Court's inventory control system has been made available to other courts through the Administrative Office, and the Court regularly assists other courts in addressing their inventory control issues. The Court witnessed an increase in the use of credit cards by attorneys to pay filing fees from 1.5% of all fees paid in Fiscal Year 2002 to 19% of all fees paid during Fiscal Year 2003. It is expected that attorneys' use of credit cards to pay filing fees will continue to increase as the number of cases filed by attorneys electronically through CM/ECF increases.

ATTORNEY DISCIPLINARY STATISTICS

_____ Suspensions	0
Disbarment	0
Resignation	0

It came to the attention of the District Court that the Appellate Division, 4th Department, has failed to provide this Court with notification of attorney disciplinary proceedings. The Appellate Division has been contacted and has promised to immediately provide copies of disciplinary decisions and orders entered during Fiscal Year 2003. These matters will be subsequently reported in next year's Annual Report.

JUDICIAL MISCONDUCT COMPLAINTS

None